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Suffragists Oral History Project

Burnita Shelton Matthews

PATHFINDER IN THE LEGAL ASPECTS OF WOMEN

With an Introduction by  
Betty Poston Jones

An Interview Conducted by  
Amelia R. Fry

Copy No.   /





Judge Burnita Shelton Matthews  
Early 1950s





# Burnita S. Matthews Dies at 93; First Woman on U.S. Trial Courts

By STEVEN GREENHOUSE

Special to The New York Times

WASHINGTON, April 27 — Burnita Shelton Matthews, the first woman to serve as a Federal district judge, died here Monday at the age of 93 after a stroke.

Judge Matthews was named to the Federal District Court for the District of Columbia by President Truman in 1949. At the time of her nomination, she was a familiar figure in Washington as a lawyer for the National Women's Party and an active campaigner for women's rights.

Judge Matthews presided over a number of major trials, including the 1957 bribery trial of James R. Hoffa, at which the teamsters' union leader was acquitted.

She recalled in an interview several years ago that her friendship with a number of senators had blunted opposi-

**A campaigner for  
womens' rights,  
she received an icy  
welcome from her  
fellow judges.**

tion to the notion of a woman on the Federal bench. When her nomination was being considered, one of the judges on the district court, T. Alan Goldsborough, said publicly that while "Mrs. Matthews would be a good judge," there was "just one thing wrong: she's a woman."

While Judge Goldsborough told her some years later that his opposition had been mistaken, she received an icy welcome from her fellow judges, who agreed among themselves to assign her all the "long motions," the most technical and least rewarding part of the court's docket.

Judge Matthews never retired from the court. In 1968 she took senior status, permitting her to reduce her workload on the district court while also hearing occasional cases in other Federal courts in Washington. She sat on the United States Court of Appeals for the District of Columbia and on the United States Court of Customs and Patent Appeals. She continued hearing district court cases until five years ago.

Judge Matthews retained a strong sense of her own role as a pioneer, and never wavered in her commitment to expanding opportunities for women. In a 1985 interview with the Third Branch, a newsletter published by the Federal court system, she said she had always chosen women to be her law clerks.

"The reason I always had women," she said, "was because so often, when a woman makes good at something they always say that some man did it. So I just thought it would be better to have women. I wanted to show my confidence in women."

## Sent to Music School

Burnita Shelton decided as a young girl that she wanted to be a lawyer, although professional opportunities in the law were extremely limited for women. She was born Dec. 28, 1894, in Copiah County, Miss., where her father owned a plantation and served as clerk of the local chancery court. She often accompanied him to court. But while the family sent her brother to law school, she was sent to the Conservatory of Music in Cincinnati, where she studied voice and piano.

She was teaching piano when the United States entered World War I. Hoping to find a Government job that would enable her to go to law school at night, she moved to Washington, passed a Civil Service examination, and took a job with the Veterans Administration. She went to night school at National University Law School, which later became part of George Washington University.

After her graduation in 1919, Mrs. Matthews, now married to a lawyer, Percy A. Matthews, applied to the Veterans Administration for a job as a lawyer. When the agency told her that it would never hire a woman in the legal department, she opened her own law office.

## Other Obstacles to Legal Career

There were other stumbling blocks as well. The local bar association refused to accept her application for membership, returning the check she had sent for membership dues. Judge Matthews included that check among the papers she donated to what is now the Burnita Shelton Matthews Collection at the Arthur and Elizabeth Schlesinger Library on the History of Women in America, at Radcliffe College.

Her activities on behalf of women's rights began in law school. In 1919, she was among several dozen women who regularly picketed the White House on Sundays on behalf of women's suffrage. "You could carry a banner," she recalled in the 1985 interview, "but if you spoke, you were arrested for speaking without a permit. So when they asked me why I was there, I didn't answer."

After women got the vote in 1920, she shifted the focus of her activities. She became the lawyer for the National Woman's Party, which was trying to persuade state legislatures to lift legal barriers to women. Mrs. Matthews re-



Associated Press, 1949

Burnita S. Matthews

searched state laws and drafted proposed bills. The National Woman's Party owned the property across the street from the Capitol where the Supreme Court's building is now located. In the 1920's, when Chief Justice William Howard Taft proposed acquiring the land for the Court, she went to the Chief Justice's home to try to persuade him to look elsewhere. Her efforts failed, but she represented the party in the condemnation proceedings and won a generous settlement for it.

In the 1940's she also taught at the Washington College of Law, now part of American University.

In 1949, President Truman named her to one of 20 new district judgeships that Congress had created to relieve a backlog in district court dockets. Among her rulings was one upholding the right of Black Muslims in the local prison to conduct religious services.

In a 1955 case, she refused to order the State Department to issue a passport to the singer Paul Robeson, ruling that he had first to exhaust available administrative remedies before he could challenge the legality of the regulations. Mr. Robeson's passport was withheld from 1950 to 1958 and was restored to him when, in a similar case, the Supreme Court ruled the State Department's action unconstitutional.

On the Court of Appeals, Judge Matthews ruled that the Social Security Administration could not cut off disability benefits without a hearing.

In 1984, President Reagan commended her for her "diligence, distinguished efforts and pioneering spirit."

Her husband died in 1969. They had no children. Judge Matthews is survived by four sisters-in-law and 11 nieces and nephews. She will be buried in the family cemetery in Copiah County, Mississippi.



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## PREFACE

The Suffragists Oral History Project was designed to tape record interviews with the leaders of the woman's suffrage movement in order to document their activities in behalf of passage of the Nineteenth Amendment and their continuing careers as leaders of movements for welfare and labor reform, world peace, and the passage of the Equal Rights Amendment. Because the existing documentation of the suffrage struggle indicates a need for additional material on the campaign of the National Woman's Party, the contribution of this small but highly active group has been the major focus of the series.

The project, underwritten by a grant from the Rockefeller Foundation, enabled the Regional Oral History Office to record first-hand accounts of this early period in the development of women's rights with twelve women representing both the leadership and the rank and file of the movement. Five held important positions in the National Woman's Party. They are Sara Bard Field, Burnita Shelton Matthews, Alice Paul, Rebecca Hourwich Reyher, and Mabel Vernon. Seven interviews are with women who campaigned for suffrage at state and local levels, working with other suffrage organizations. Among this group is Jeannette Rankin, who capped a successful campaign for suffrage in Montana with election to the House of Representatives, the first woman to achieve this distinction. Others are Valeska Bary, Jessie Haver Butler, Miriam Allen de Ford, Ernestine Kettler, Laura Ellsworth Seiler, and Sylvie Thygeson.

Planning for the Suffragists Project and some preliminary interviews had been undertaken prior to receipt of the grant. The age of the women--74 to 104--was a compelling motivation. A number of these interviews were conducted by Sherna Gluck, Director of the Feminist History Research Project in Los Angeles, who has been recording interviews with women active in the suffrage campaigns and the early labor movement. Jacqueline Parker, who was doing post-doctoral research on the history of the social welfare movement, taped interviews with Valeska Bary. A small grant from a local donor permitted Malca Chall to record four sessions with Jeannette Rankin. Both Valeska Bary and Jeannette Rankin died within a few months of their last interviewing session.





The grant request submitted to the Rockefeller Foundation covered funding both to complete these already-recorded interviews and to broaden the scope and enrich the value of the project by the inclusion of several women not part of the leadership. The grant, made in April, 1973, also provided for the deposit of all the completed interviews in five major manuscript repositories which collect women's history materials.

In the process of research, a conference with Anita Politzer (who served more than three decades in the highest offices of the National Woman's Party, but was not well enough to tape record that story) produced the entire series of Equal Rights and those volumes of the Suffragist missing from Alice Paul's collection; negotiations are currently underway so that these in-party organs can be available to scholars everywhere.

The Suffragists Project as conceived by the Regional Oral History Office is to be the first unit in a series on women in politics. Unit two will focus on interviews with politically active and successful women during the years 1920-1970; and unit three, interviews with women who are incumbents in elective office today.

The Regional Oral History Office was established to tape record autobiographical interviews with persons prominent in the history of the West and the nation. The Office is under the administrative supervision of James D. Hart, Director of The Bancroft Library.

Malca Chall, Director  
Suffragists Oral History Project

Amelia Fry, Interviewer-Editor

Willa Baum, Department Head  
Regional Oral History Office

2 January 1974  
Regional Oral History Office  
486 The Bancroft Library  
University of California at Berkeley



## INTRODUCTION

Late afternoon of any ordinary day, throngs of workers jam the sidewalks of downtown Washington, D.C., as they hurry toward bus stops and home--a workday completed. Amidst the humdrum of rush hour traffic along Pennsylvania Avenue, one could observe a small blue automobile pull up alongside the curb, short of the Thirteenth Street traffic light. A woman with a briefcase steps out. With a smile and a wave, she merges with the crowd moving toward the Connecticut Avenue Express Bus. Her ageless face, punctuated with youthfully bright blue eyes, is somewhat contradicted by her wavy, gray hair and matronly figure. She has the classic look of a "grandmother" who is returning home from an afternoon's shopping . . . except for the briefcase. She is Federal District Judge Burnita Shelton Matthews, who in 1949 became the first woman in the United States to serve on the federal trial bench.

Eight able lawyers have assisted Judge Matthews in the capacity of "law clerk" during her twenty-five years on the bench. All are women, which in itself is rather remarkable, and bears witness to Judge Matthews' unwaivering belief in the ability of women and to her efforts to provide opportunities so often denied them. "Besides," she remarked dryly to me one day, "if I had a male clerk, everyone would say some man was telling me what to do." Although in typical vernacular one would refer to this group as the judge's law clerks, the judge thinks of us as her "girls"--and so we are.

The "girls" have proved her confidence in them well-founded. Ellen Lee Park (1950-1956) is assistant chief of the Civil Division in the United States Attorney's Office. Sylvia Bacon (1956-1957) was appointed a judge of the Superior Court of the District of Columbia in 1970, and was one of the women President Nixon considered for appointment in filling two vacancies on the United States Supreme Court in 1971. (The appointments ultimately went to Lewis F. Powell, Jr. and William H. Rehnquist.) Patricia Frohman (1957-1963) is an assistant United States attorney for the Civil Division in charge of claims.

Mary Margaret Burnett (secretary, 1960-1963; law clerk, 1963-1964) is in private practice in Florida. Bonnie Lewis Gay (1964-1966) holds the position of attorney-adviser in the Office of the General Counsel, United States Treasury. Barbara Susman Yaffe (1965-1966) practices with a private law firm in Ithaca, New York. Polly Wirtzman Craighill (1966-1968) is the executive director, Consumer Protection Commission for Prince George's County, Maryland.



Mary Giove Seaton and Margaret A. (Peggy) Deeds round out the group. Although not a lawyer, Mary left a twenty-four year career with the Department of Justice to become Judge Matthews' administrative secretary in 1966. Peggy Deeds enjoys unique status as one of Judge Matthews' "girls," being the only one who has never been on the Judge's staff. Peggy was a court reporter assigned to the Judge. She studied law at night. Through the efforts and persuasion of the Judge, Peggy began her work as an attorney in the Office of the Register of Wills, in which she eventually became the first deputy.

When in 1968 I interviewed for the position of law clerk, I met Judge Matthews for the first time. Although I knew her by reputation, I was hardly prepared for the warm and gracious lady who welcomed me into her chambers. We chatted the better part of an hour. Because there emanates from her such a sincere interest in the person she is talking with, her involvement converted an otherwise stereotype interview into one of the most delightful hours I've spent. I remember thinking afterwards that whatever the outcome, I would always treasure that hour. During the six years I have been with her, many memorable hours have been added.

As a private practitioner, Judge Matthews specialized in real estate transactions. Driving around town with her, I marvel at the storehouse of knowledge she possesses regarding the various sites and the people who have owned or occupied them. (We were driving around the back of the White House one afternoon when the Judge, pointing to what is now known as Jacqueline Kennedy's Rose Garden, recalled the spot as once having clothes lines from which hung President Harding's underwear.) Probably the most well-known site in which she was involved as an attorney was one owned by the National Woman's Party. She represented the party in a condemnation proceeding brought by the government to acquire it. On that site now stands the United States Supreme Court Building.

On becoming a federal judge, she curtailed her public activities in promotion of the Equal Rights Amendment. Although much sought after by national women's organizations, the Judge has refused their appeal to her to speak out for the amendment. She believes this would be an improper use of the power which a federal judge possesses, particularly where, as here, the judge is a woman. The impropriety of a judge's attempt to influence the passage of legislation stems from the basic function of the judiciary to interpret legislation after it is passed. She would never do or say anything which might so much as cast a shadow on her integrity as a judge. Consistent with her standard "no" to the continuing requests, in 1973 when Bill Moyers' office called from New York inviting Judge Matthews to be a guest on his television program, "Bill Moyers' Journal," she instructed Mary Seaton to "very politely" refuse. Thirty minutes later, however, Bill Moyer himself was on the phone to speak with the Judge. To our surprise and delight, she accepted. The subject matter was



the Equal Rights Amendment, but her part dealt solely with its history. Needless to say, she very carefully confined her remarks to the pre-1949 period.\*

On the bench Judge Matthews combines a brilliant mind with splendidly reliable instincts and a great deal of common sense. A leader, not a follower, she has never been reluctant to administer the law as she sees it, even when she has stood alone. It is legend that she has been the least "reversed" judge on the district court. Always a "working" judge, she has taken the cases as they came, seeking no favors and offering no excuses. A number of well-known persons have been litigants in her court, among whom were the late Senator Joseph McCarthy, Negro baritone Paul Robeson, labor leader James R. Hoffa, and pop singer Dick Haymes. In the 1960s there was talk of her being elevated to the Circuit Court of Appeals or even appointed to the United States Supreme Court. This came to naught, her age seeming to be the deterring factor.

In 1968 Judge Matthews assumed "Senior" Judge status. This was to give her a choice in cases, relief from some administrative obligations, and a chance to take things easier. Instead, she has added to her work load. In addition to her district court work, she has sat twice with the United States Court of Customs and Patent Appeals (the first woman to do so in the history of that court). During the past four years she has served by designation pursuant to statute on the United States Court of Appeals for the District of Columbia Circuit. Quite recently one of the circuit judges observed "if we had more judges on this court like Judge Matthews, we would get more work done."

Many portraits of past judges and a few present judges grace the walls of the Courthouse, and until last year, all were of men. On February 1, 1973, in the ceremonial courtroom of the United States Courthouse, Chief Judge John J. Sirica accepted on behalf of the District Court a portrait of Judge Matthews, painted from life by Miss Roma Harlan of the National Gallery in Washington. The portrait was commissioned by Judge Matthews' "girls," and Ellen Lee Park, whom we regard as our dean, made the presentation.

Today Judge Matthews' portrait hangs in her courtroom. At first I had mixed emotions about the portrait; partly, I think, because it seems to lack the liveliness, the humor, and the charm which are such a dominant part of her personality. Later, I realized that I know two women. The

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\*The transcript of "'Daddy Don't Be Silly'--A Case for Equal Rights" broadcast March 5, 1974, is on file at The Bancroft Library, University of California, Berkeley.





lady who coolly gazes back at me from the portrait is the Judge.

Actually, the protrait reveals her to be a bit of a paradox--the severity of the traditional black robe, broken by the completely feminine white ruffles and lace at her throat and wrists. Always gracious, she enters her courtroom with a pleasant good morning, which just faintly hints at her Mississippi origin. But it is a very foolish attorney who comes before her underestimating her acumen or misinterpreting her outwardly mild manner. Several years ago an attorney made this mistake. Obviously drinking, he was quarrelsome and rude, sometimes quite overbearing. Throughout the trial the Judge said nothing about his behavior. Once the trial was over, however, she quietly called him before the bench in open court, enumerated each incidence of his misbehavior in court, and in her inimitable way, held him in contempt. That is the Judge of the protrait . . . sorry the incident arose, but firm in her conviction of what must be done and quite capable of doing it. The artist excelled in capturing the dignity of Judge Matthews and her great strength of character.

Ellen Lee spoke from the hearts of all of the "girls" when she presented "a truly great portrait and a fine likeness of a hard-working, conscientious Judge whom we love and admire." Judge Sirica responded: "The portrait is beautiful, as befits the subject. Therefore, Mrs. Park, I receive it graciously and officially on behalf of the court. And when others in times yet to be occupy our places, they can see what we had and what they missed."

Betty Poston Jones  
Law Clerk

12 December 1974  
Washington, D.C.



## INTERVIEW HISTORY

The significance of Burnita Matthews lies in her contributions as a jurist and her leadership in the struggle for women's equality, particularly the suffrage and equal rights amendments. The latter was the focus of our approach, as part of a series of interviews with women political leaders.

Mabel Vernon, whose own career as a suffragist is well-known, urged us by telephone from Washington on January 29, 1973, that Burnita Matthews' career be documented in our series. Alice Paul had similarly suggested that Judge Matthews is someone we should interview, particularly for her incredible volume of research after the suffrage battle when she and her aides reviewed each state's codes and drew up reforms to correct the existing inequities under the law.

Three months after the telephone conversation with Mabel Vernon, when we were meeting in Washington to finish her interview, Judge Matthews agreed to clear her calendar one Sunday afternoon for a taping session. It was April 29, 1973, almost her only free time for such an extra-curricular activity. We agreed upon a general outline beforehand, and when I arrived she was receptive and gracious, at once the hostess offering tea or coffee, and the competent interviewee. We set right to work in her spacious living room--my memory recalls quiet colors, beautiful traditional furniture, and generous windows overlooking the sunlight and trees of Connecticut Avenue. She dispatched the questions efficiently with conversational ease; in fact, we covered enormous ground in one short afternoon's taping.

She reviewed and annotated the transcript with the assistance of Fern Ingersoll, an interviewer-editor for the Regional Oral History Office who lives close at hand in Washington, D.C., and whose own account of her work with Judge Matthews follows.

Amelia R. Fry  
Interviewer-Editor

14 April 1975  
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## The Editing

When I began to edit the transcript of the interview between Judge Burnita Shelton Matthews and Amelia Fry, I listened to the tapes to fill in a few blurred phrases, and enjoyed hearing her strong, sure voice, realizing that others may someday derive pleasure from hearing the recording.

In the summer of 1974, I took the Judge the transcript, complete with my table of contents, subject headings, and several pages of clarifying questions. Outside the windows of her chambers in the United States Courthouse, there was the havoc of rebuilding Washington. Nothing could be more in contrast with the atmosphere of organized calm that prevailed within.

Because it was the lunch hour, the Judge herself welcomed me. She stood so straight that I thought at first this gracious person in the outer office must be the Judge's assistant--until I recognized the same soft, clear voice. Over a trim pink suit she wore a blue shawl which mirrored her sparkling blue eyes.

Several times as we talked she went to get a document we needed, always moving in and out of her office with quiet energy. Glancing around the room as I waited for her to return, I was delighted with two delicate china figures on shelves midway between two wide tiers of law books.

When I mentioned the University of Chicago Manual of Style which I had been using, with some modifications, as a guide for punctuation and capitalization, she laughed--as one with many concerns--and said that since legal style is so distinctive, she would leave these matters as my responsibility.

In the course of our conversation, Judge Matthews said she had a number of opinions to write for the court and would not be taking a vacation until they were finished. With increasing amounts of work before her during the next months, Judge Matthews nevertheless made time to go over the transcript completely.

After I left Judge Matthews, her law clerk, Betty Poston Jones, took me to the Judge's courtroom to show me her portrait and told me about the Judge as she had come to know her during their years of work together. Betty Jones, too, put pressing work aside to write the felicitous introduction to the transcript.



Several days after our meeting, I received from the Judge's administrative secretary, Mary Seaton, xeroxes she had made of the documents we had discussed. I have documented all of these in the transcript; many appear in the appendices. I would especially draw the reader's attention to the article in the appendix by Lee Berger Anderson, editor-in-chief of the Women Lawyers Journal (1973). In the interview transcript Judge Matthews discusses at length the legal constraints upon women in the second quarter of the nineteenth century, but because of her natural reticence to speak of her achievements, her own part in removing these constraints is minimized. It is more fully described by Anderson in "Judge Burnita Shelton Matthews: Lawyer and Feminist."

Fern Ingersoll  
Editor

9 January 1975  
Washington, D.C.





TAPE NUMBER I

(Date of Interview: April 29, 1973)

FAMILY BACKGROUND

Fry: I thought we would start with where and when you were born and who your parents were.

Matthews: I was born near Hazlehurst, Mississippi, on December 28, 1894. My father was Burnell Shelton and my mother was Lora Barlow. My mother was a college graduate, and there were not many woman who were college graduates in that day and time.

Fry: Where did she go to college?

Matthews: She went to college at Brookhaven, Mississippi. The college was Whitworth College, and it still functions. My father was a planter, but he also served as an elected official. He was clerk of the Chancery Court of Copiah County and also he was the tax collector of that county. The name of the county is an Indian name. We had Indians there in those days.

Fry: Oh, really. Did you see the Indians?

Matthews: Oh yes.

Fry: Did they go to school with you?

Matthews: No. They had their own school.

Fry: As you were growing up was your mother a teacher or did she stay home?

Matthews: No, she wasn't a teacher. She stayed home and looked after us. But my mother died early. She left several sons, but I was the only girl.



Fry: How many brothers did you have?

Matthews: I had four when my mother died.

Fry: Did this put you in the role of mother?

Matthews: Yes, it did, because I was the second oldest child.

Fry: How old were you then?

Matthews: I was about sixteen.

Fry: Had you always planned to go to college or not?

Matthews: I wanted to, but my father did not share my views. My father wanted me to be a musician. He wanted me to play the piano. After my mother died, he sent me to the Cincinnati Conservatory of Music. I have a teacher's certificate from there. I taught piano for a few years. I had always wanted to study law. Then I decided that I would, but that didn't become a reality until later, after I left Mississippi. I was quite at home in the courthouse, because my father had his offices in the courthouse as an elected county official. And so I saw a lot of the law at that time. But, of course, he felt it would be better for me to be a musician.

Fry: Was this because you were a woman?

Matthews: I think so. I had a brother--Sidney--who was very gifted. He played and liked the piano, but my father didn't even want him to study the piano. My mother, while she was living, insisted that he study.

Fry: Your father wanted him to go into something more masculine?

Matthews: Yes, that's right. My oldest brother received a legal education and became a lawyer. He settled in Arkansas. He was a member of the legislature of Arkansas, and he was also City Attorney in Hot Springs for some years. His name was Allen D. Shelton. He's dead now. In fact, I'm the last survivor of my mother's children. I have one half brother, John L. Shelton, the son of my father's second wife.

Fry: As you were growing up, you had quite a lot of music in your family?



Matthews: Yes. My mother played. My brother Sidney and I often played.

Fry: How did you have musical influences then? In Mississippi you wouldn't have concert artists coming through a great deal, would you? And you couldn't get phonograph records yet.

Matthews: No, you couldn't get phonograph records at that time, but later on you could. I can't remember when my mother didn't have a musical instrument. She had an organ and a piano. She played and sang, and I suppose we just got that from her; and, of course, in the community they had concerts. People would meet and sing.

Fry: What about the church? Were you active in the church?

Matthews: Yes, I was.

Fry: What was your church?

Matthews: My church was the Methodist Church. I was and still am a Methodist. My brother Sidney rang the church bell on Sundays. I played at church for the singing.

#### LAW SCHOOL

Matthews: In World War I, I was supporting myself by teaching piano and also sight singing in a town in Georgia. I saw advertisements for people to work for the federal government during the war, so I took the examination for a clerkship. I passed. I really wanted to study law. Not many places had law schools in the South where I lived. I was offered a job, and so in order to study law I came here to Washington. I took a job with the government. I stayed with the government until I had finished law school in 1920. The law school that I went to was called the National University, but it no longer exists under that name. It was consolidated with George Washington University. So I'm recognized as a graduate of George Washington University.



### Government Clerkship

Fry: When you said you got a clerkship, do you mean a law clerkship?

Matthews: No, at that time I wasn't qualified. I came here as a government clerk.

I might say, while I was working for the government, they so desperately needed people who did know something about law that they sent circulars around to all the heads of departments to find out whom they had in their departments who knew about law. So the head of the department that I was in submitted my name, and I tried to get in that department; but there were no jobs there open to women. I was told that those jobs were places for veterans who were coming home.

For many, many years they didn't give legal jobs to women. They excluded them. Later on, much later on, they did take women in positions as adjustors and as lawyers and in the Office of the General Counsel of the Veterans Administration. But it hasn't been so many years that a woman I know, who worked up the line to the next to the highest legal position, wasn't given the job when the vacancy came; and she should have had it. So then she left them. She is still living today. Her name is Mary M. Connelly. She's in private practice in Washington now.

### Demonstrating for Suffrage

Matthews: While I was at law school I met a woman who was studying law. She was, I imagine, about in her fifties then. She told me about a woman's movement and the women who were working in that movement--the Woman's Party--that was promoting woman suffrage. Also, I saw on a sign along the sidewalk that the Woman's Party was going to have a mass meeting in the National Theater. I went to this meeting. The lady that I was telling you about--her name was Julia Jennings--said to me, "Will you go over and help on Sunday with the pickets at the White House?" So I did. I went a number of times, as many times as I could spare, when they did the picketing.

The Woman's Party headquarters at that time was located on that square in front of the White House where Lafayette's statue is standing. It was amazing in those days how some of





Matthews: the people felt about women picketing.

Fry: Including the law enforcement officials?

Matthews: Yes, including them! On one of those occasions when I wasn't doing anything but just carrying a banner, someone who was watching the parade came up and said, "What are you being paid for this?" They used to say things like that. Sometimes male parade watchers would try to take your banner from you. It wasn't at all unusual to have one of them try to take away your banner.

One Sunday [1919] I was there in front of the White House, and the picketing was going on. Mrs. Havemeyer [H.O.], who was an extremely prominent woman from New York--I think her husband had been involved in the sugar industry--did something in front of the White House; I think she lit a fire on the sidewalk.\*

Fry: When they were having the fires and burning the President's words.

Matthews: Something like that. She was arrested and taken off to jail. I don't know how long she stayed. At that time, if someone came up to you and asked you a question and you undertook to expound on the suffrage movement, then you were arrested. You were arrested for speaking without a permit to speak. So when anybody tried to get me to talk with them, I didn't talk, I didn't answer, because I was a law student; and I thought that if I got arrested and had an arrest record, it would be counted against me when I tried to get admitted to the bar. So I didn't speak at these rallies or marches.

Mrs. Anna Kelton Wiley was an extremely important woman in Washington because she was very active in civic affairs, and also her husband, Dr. Harvey Wiley, was the father of the Pure Food Law. Since she believed in woman's suffrage, he encouraged her to go and do what she could for it. So she did. Mrs. Wiley was arrested. She was convicted. I think her conviction was for obstructing traffic. Alice Paul could tell you.

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\*On February 9, 1919, members of the Woman's Party burned a paper figure of the president. Mrs. Havemeyer attempted to make a speech and was arrested with other members of the Woman's Party. (Inez Haynes Irwin, Up Hill With Banners Flying: The Story of the Woman's Party [Penobscott, Maine: Traversity Press, 1964], p. 416.) Ed.



Fry: A number of them were according to the book [Inez Haynes Irwin, Up Hill With Banners Flying: The Story of the Woman's Party].

Matthews: Irwin's book [2nd ed.] tells about Mrs. Wiley. She appealed. Her husband encouraged her to appeal. The appellate court threw out the conviction.

Fry: Were you ever to do any of the legal groundwork in any of these cases?

Matthews: I was not, because at this time I was working all day and I was going to law school. I got there at six o'clock, and then I went to classes for two and a half hours, and after that I had to study. Then the next day began all over again. The only time I really had free was the weekends, Saturday and Sunday. Of course I wasn't admitted to the bar until the fall of 1920.

Fry: That was the same time that we...

#### RESEARCH FOR WOMAN'S PARTY ON DISCRIMINATIONS

Matthews: Yes, we got suffrage in August.

The Woman's Party in the spring of 1921, just after getting suffrage, had a meeting. I think that meeting was in the Washington Hotel. At that meeting they discussed where they would go after winning woman suffrage, and what they would do and so forth. Then, out of all of this came the decision to continue to work to improve the status of women. At that time Miss Paul thought that we ought to try to learn what the discriminations were against women in the different states. I don't know if you know this, but there were not too many women practicing law in 1920.

#### Passing the Bar Exam after Law School

Fry: I wondered about that. Did you have any trouble getting admitted to the bar?

Matthews: No. You could be admitted if you could pass the examination. When I took the bar examination here in Washington--I took it



Matthews: in June of 1920--there were four women who took it. You weren't supposed to have your name on the papers. That way no one could know who it was who wrote each paper. There was some other method they had of grading the papers. At that particular session there were only four women who took it, and I was the only one who passed at that time. The others took it again. It's not unusual to fail the bar examination the first time, because it's extremely difficult. Some people are constituted so that they get nervous and don't do their best. But there are a lot of men who fail to pass too the first time. There were men as well as women who failed it when I took it.

The Woman's Party decided to go forward with trying to remove the remaining discriminations against women. As I said before, Miss Paul wanted to find out what these discriminations were. So, after I was admitted to the bar and had gotten an office close by the courthouse and was undertaking to get established, Miss Paul asked me to do things, look up these discriminations. For instance, if a woman came from Louisiana, Miss Paul would ask, "What are the discriminations in Louisiana?" The woman from Louisiana would usually say, "My husband says there aren't any."

#### Working to Eliminate Discrimination in State Laws

Matthews: On one of these occasions Miss Paul asked me to look up the law in Louisiana. So I went to the library. At that time the Supreme Court was located in the Capitol. I went to the law library of the Supreme Court in the Capitol, because of course I didn't have an adequate law library to look up the laws of different parts of the country. I found that in Louisiana they had the Code Napoleon. The Code Napoleon said a lot of interesting things about women. It said something like this: "Men are capable of all kinds of engagements and functions. Women are disqualified from any civil function unless specifically authorized by law."

Fry: That's even worse than the English.

Matthews: They said a lot of other things too in the Code Napoleon.

Fry: Had Louisiana adopted this lock, stock, and barrel at the time?

Matthews: Yes. Louisiana still goes by the Code Napoleon. I don't mean



Matthews: that they don't have statutes in Louisiana which supplement the Code Napoleon; but they do, they have the Code Napoleon in Louisiana to this day. They have things about family meetings for the determination of certain things in the family. Instead of having laws on guardianship, they call it tutorship.

They had another interesting law that said something like this: "The child is under the authority of the father and the mother, but in case of difference of opinion the authority of the father prevails."

They had a lot of things in the code of Louisiana. There was a Mrs. J.D. Wilkinson who was a very prominent woman in Louisiana. She took many of the bills that I drafted for these particular things and got some of them passed.

In 1926 the Woman's Party released a pamphlet. It had pictures; and among other things, it had a list of the accomplishments of the Woman's Party in changing laws with respect to women. Many of those things in Louisiana that we were able to get passed were mentioned in the pamphlet.

New York is regarded as a progressive state. New York had a law that did not put the mother on the same footing as the father in regard to inheritance if they should have a child who died and left a fortune. The father was preferred over the mother. The Woman's Party worked for a change in that law, and they did get that changed. It was in the early twenties.

Fry: That was changed to equally divided inheritance?

Matthews: Yes. And right here in Washington they had a law that said that the father was preferred to the mother in inheritance. Then it said, "And so on without end, passing to the nearest male ancestor; and for want of the male, to the female." It took a long time in the District of Columbia to get that changed. It took about ten years. It wasn't passed until about 1935.

Fry: Did that have to be passed by Congress?

Matthews: Yes.

Fry: Why did it take so long?





Matthews: One of the reasons was due to a congressman from Kentucky. He was very much taken with the law of Kentucky and the law of Virginia on descent and distribution. The law of Virginia on descent and distribution, I think, was written by Thomas Jefferson. A congressman from Kentucky, Judge Gilbert [Ralph Waldo Emerson] they called him, just took the law of Kentucky and put at the beginning, "Be it enacted." And then, without any effort to adjust it to the law of the District of Columbia, he introduced the bill in Congress to apply to the District.

The Woman's Party, together with the Women's Bar Association, proposed a bill to correct this situation. When our bill came up on the floor of the House, Judge Gilbert asked that our bill be laid aside, because he was working on a comprehensive amendment. I went to Judge Gilbert and told him that we were not interested in having a general revision of the law at this time, but we wanted simply to put women on an equal footing with men in the inheritance laws. I said, "Why don't you let our bill go through and then you can work on this general revision, because the bar [D.C.] is not ready for the general revision." The Bar Association of the District of Columbia wasn't even ready for the bill we were working on to change the law to have women equal under the inheritance law with men. The D.C. Bar wasn't even in favor of that. The title companies weren't for it. They said, "Looking up the records, it just means more people, and why should you put women in?"

Fry: Too many names in their filing cabinets.

Matthews: So then when Judge Gilbert managed to get his bill up before the committee, I think it was the Judiciary Committee (if not the Judiciary Committee, the District of Columbia Committee), then the Bar Association of the District of Columbia appeared and opposed it and said that they were for the one that we had been trying to get all the time. For years this thing was just at a stalemate because Judge Gilbert wanted the law of Kentucky and Virginia to prevail, and we were working just to get women treated right.

So finally I said to Judge Gilbert that I believed I would revise the bill. And I did. Then the commissioners of the District of Columbia agreed to back what I had put together, and it was passed in 1935. The passage of the measure required more than ten years.

Fry: Who worked on the legislation in New York?



Matthews: One woman who worked on it particularly was Mrs. Smith [Jane Norman]. Mrs. Smith is deceased now. She was in charge of the New York measures. She received the bills, and she got them introduced. She arranged the hearings and the speakers. When this group of bills got into New York--the research department in which I was working prepared these bills and sent them to New York to Mrs. Smith--Mrs. Smith would arrange for their introduction there and to have them looked over by the people.

Mrs. Eleanor Roosevelt was active in New York at that time, but instead of supporting these bills she was asking for a commission to be created to study the position of women. Mrs. Smith said, "We've already studied it. We've done that for several years now." And so the man in New York who was the chairman of the Judiciary Committee at that time, I think his name was Costello (I'm not sure of his rank; I didn't attend any of those hearings), spoke to Mrs. Roosevelt. According to Mrs. Smith, he said to Mrs. Roosevelt, "Why don't you take a position on some of these bills? Just to say, well you're not for any of them--that you want a commission--isn't enough. You know what you want on these bills. Well, why not act?"

The bills were for many things. Separate bills for separate ills. For instance: To give women the right to serve on juries; to do away with the discrimination against women with reference to the guardianship of their children; to straighten out the laws on descent and distribution so that women would have a status equivalent to that of men in the same relationship. So that went on for some time.

Fry: Did Mrs. Roosevelt ever come out publicly against any of these?

Matthews: Mrs. Roosevelt was never for the Equal Rights Amendment.

Now this comes some time later, but the Woman's Party in 1923 had a meeting at the same place where they held the first Equal Rights convention in 1848. It was in Seneca Falls, New York, in 1923. At that second Seneca Falls convention, the delegates voted to work for an amendment to the Constitution of the United States to give women equal rights with men. That's where it was adopted in 1923.

Prior to that meeting in 1923, Miss Paul had suggested that we work on a draft. She was very active in that. She asked me to look up all the words that she was using in the draft, to look for cases that would throw light on the phraseology.



Matthews: I did. All that was studied. There were a lot of women working digging up these laws. One summer that I can recall there were ten or twelve women working to ascertain what these laws were and how they affected women, and so forth. For instance: on jury service, which states allowed it and which ones didn't; what states recognized the mother as a guardian; where the discriminations were; what the inheritance rules were in different states; in what states women could work in some branch of government service; and where women could hold public office.

### Women and the Practice of Law

Matthews: It wasn't until after the suffrage amendment was passed that some women could practice law. For instance, Delaware didn't allow women to practice law until 1920 when the suffrage amendment came in.

Fry: How did suffrage allow them to practice law?

Matthews: Since they could vote, there seemed to be no point in excluding them from practicing law.

Fry: You mean a new statute was passed?

Matthews: I don't know whether or not a new statute was passed. A lot of times women would say that under an existing law they were entitled to so and so. For instance, after the Fourteenth Amendment was passed, long before the suffrage amendment, women tried to get admitted to the Bar of the Supreme Court. Myra Bradwell, I think her name was, tried to get admitted to the bar in Illinois. She claimed that under the Fourteenth Amendment she should be admitted. There were a lot of decisions holding that women could not be lawyers at common law and so women were turned down.

When a woman tried to get admitted to the bar in Wisconsin, she faced a remarkable decision. That decision was something to the effect that there are many callings for women which were suitable and proper, but that the law was not one of them; and that it was treason for women to undertake to invade the practice of law.

Fry: Treason?



Matthews: Treason in the sense that she is trying to be something not appropriate to her sex.

Fry: Why didn't the Fourteenth Amendment cover equality for women? Why hasn't it been used this way?

Matthews: The women tried to use the Fourteenth Amendment, but against that background the common law on the subjection of women was advanced. Men just reasoned that the Fourteenth Amendment wasn't intended to apply to women.

Fry: Was there a problem up until this century of women not being defined as persons?

Matthews: A lot of people say that women were not persons. I don't think it has ever been held that women were not persons. The idea that was fostered is that given the background and under the circumstances it [women in legal work] isn't appropriate. For example, they have a law in Wisconsin called the Equal Rights Statute and that was passed after women got suffrage.

Fry: Right about 1920?

Matthews: I'm not sure. I think 1921 is right. What this law said was that women should have equal rights with men, except that it should not be construed to deny to women the special protection that they then enjoyed for the general welfare.

Fry: The reason I'm laughing is that it sounds so much like one of the riders that was put on just two years ago in Congress.

Matthews: What happened was that they had a law in Wisconsin that limited employment by the legislature to males. Clerks to a legislative committee, etc. had to be men. After this Equal Rights Statute was passed in Wisconsin in 1921, the women thought of course these legislative positions, which after all are very desirable positions, were open to them. But when women tried to get into these jobs, the state attorney general ruled that the Equal Rights Statute did not open these jobs to women, that the hours were long and sometimes ran into the night, and it was for the special protection of women that they not serve in such jobs.

In Massachusetts they had a statute about jury service which was general in language. But when women tried to be called for jury service, it was held that they were, nevertheless, excluded.





Matthews: Do you know that the Supreme Court wouldn't do anything about Mrs. Bradwell when she tried to be admitted to the bar in Illinois? She appealed to the Supreme Court and she claimed under the Fourteenth Amendment to the federal Constitution. They didn't side with her at all.

Fry: Was that the one in the 1890s?

Matthews: Yes, that sounds about the right time.

Finally there was a pioneer woman lawyer here in Washington. Her name was Belva Lockwood. Belva Lockwood got a law passed that women could be admitted to the Bar of the Supreme Court. And she was, I think, the first woman to be admitted to practice before the Supreme Court.

Now when I came to Washington and was going to law school, some of the professors told little jokes that would put women in their places, so to speak. There was a professor one day who was commenting on Belva Lockwood, the pioneer woman lawyer. At that time they had what was called common-law pleading. Under the system of common-law pleading, if you misconceived your remedy you were likely to be thrown out of court completely, because of very technical forms of pleading. Belva was in court one day. Something was wrong with the pleading, at least the judge felt there was. Belva rubbed her hands and said, "What shall I do? What shall I do?" Whereupon the judge, so the story goes, looked at her sternly and said, "Go out and get a lawyer."

That story was told in a lecture at the law school that I attended. But strangely enough I learned a little later that Belva Lockwood had quite a few Indian claims against the government, and that she had won them and had earned large fees. Also, when I got to know the women better who were here and who had known Belva Lockwood, they had a very high regard for her. She rode a bicycle, and that was an unheard of thing in those days. I think Belva Lockwood ran for the presidency at one time. I have a much better opinion of Belva Lockwood than I was led to believe was justified when I was going to law school.



## LAW SCHOOL DESCRIBED FURTHER

Fry: Did you find that being a woman made it difficult for you at law school?

Matthews: I wouldn't say that it did. I might say that, when the marches and picketing were going on in connection with woman suffrage, there was a great deal said about them in law school by the students. Many of the students were then in uniform, in navy uniform, in army uniform. They were just getting out of their uniforms. This was in 1920. They had a lot to say about the marches and picketing. They didn't think that the women who were putting on this great campaign and bothering the President were very patriotic, and the women were greatly criticized. You would hear in the law school how the men felt about it. However, I was elected vice-president of my class. A very nice man got up and said that I was a member of the class and that I was a very earnest and capable student. He nominated me and I was elected. On the whole, the men were very nice to me, and many of them today are still friends of mine.

Fry: Were there many law schools at that time that you could not have gotten into because you were a woman?

Matthews: The law school that I went to had opened its doors one time way back yonder, and Belva Lockwood went there, to the very law school that I attended. But for some reason they closed their doors to women after they had opened them. The year I came to Washington was the first year that they had re-opened the school to women, but no one admitted that it was any re-opening. Nothing was said about that. You had to learn about it in another way. At any rate, that was the year that the doors were again opened to women. Women had been trying to get George Washington University to open its doors to them for a long time, but the university took the position that it would be distracting to young men if women were in the classes. Eventually, however, they did admit women.

In the year 1896, there were two women who decided that since universities didn't accept women as law students except at Howard University, they should form a law school for women. And they did in 1896. Those two women were Ellen Spencer Mussey and Emma Gillett. Mrs. Mussey got the "Spencer" in her name from that Spencerian type of handwriting. She was from that family. Her husband was a high-ranking official, I think he was a general--General Mussey [Reuben Delavan], they called him. At



Matthews: any rate he was a lawyer. Mrs. Mussey read law in his office, and that's how she gained admission to the bar.

Miss Gillett--there was no school near her that would admit white women to the law school--

Fry: You mean there was one that would admit black women?

Matthews: Howard University. They would admit white and black. Miss Gillett wanted to study law. Howard University was the only place she could go, so that's where she went. She graduated. Then these two women, Emma M. Gillett and Ellen Spencer Mussey, joined together and established, in 1896, a law school called the Washington College of Law.

Fry: Was this because they didn't want to go to Howard?

Matthews: Everything was segregated in those days, more or less. Howard University was financed by the federal government after the Civil War; it has always been financed by the government. At any rate, that was one place where women students could get in to study law. Miss Gillett went there, and there were some other women who went there too. I don't know their names.

Mrs. Mussey was the first dean of the Washington College of Law. Later on, they had any number of women who were deans. The college was always co-educational. From the beginning it was always open to both men and women. When Mrs. Roosevelt, the wife of the president, was here, she received an honorary degree from Washington College of Law.

By the way, I taught there for several years. I taught the Law of Evidence. They had a number of women who taught at the Washington College of Law. One of them who taught there was Mrs. Rebekah Greathouse. Mrs. Greathouse's mother was a sister of Dwight Morrow. That would make Mrs. Greathouse a first cousin to Mrs. Anne Morrow Lindbergh. Rebekah Greathouse was a graduate of the Washington College of Law. She is dead now.

In those days they didn't have the Association of American Law Schools. After some years this association was formed, and standards were established for law schools in the country. You had to do certain things and have certain professors that were full-time professors, and you had to have a library of such and such a capacity of volumes, in order to qualify for membership in this association of law schools. As a result of that,



Matthews: some of the law schools in Washington were consolidated and functioned all together. The Washington College of Law still exists, but it is now a part of the American University.

Fry: I thought you said it was a part of George Washington University.

Matthews: No, I never said that. I said that the law school that I went to was the National University. The National University was consolidated with the George Washington University. The law school that Emma Gillett and Ellen Spencer Mussey started, called the Washington College of Law, finally went in with the American University, but on condition that the name selected by those two women, the Washington College of Law, would be retained.

During the Vietnam War there were a great many students, and so many of the colleges were over-crowded. They are not so much now [1973]. It was very difficult to get into the Washington College of Law or to get in the George Washington University Law School. To get into medical school was almost impossible. They don't have the facilities for all who want to go. What would you like to talk about now?

#### EQUAL RIGHTS AMENDMENT: WORDING AND EARLY STRUGGLES FOR SUPPORT

Fry: I was going to pick up on that resolution that was passed at the Seneca Falls conference. I know that you were one of the ones who helped figure out the wording of the Seneca Falls resolution. It's interesting to me that the way the Equal Rights Amendment was worded at first was that "Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction." The present one does not mention men and women.\* How was that particular wording for the Seneca Falls resolution arrived at?

Matthews: I think that particular wording was arrived at because Miss Paul liked it. It was very clear. "Men and women shall have

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\*"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex." Ed.





Matthews: equal rights throughout the United States and every place subject to its jurisdiction." At that time there were some foreign countries that had provisions in their constitutions for equal rights for men and women. In this article ["Women Should Have Equal Rights With Men: A Reply"] that I wrote in the American Bar Association Journal [vol. 12 (1926)],\* it mentions which countries those were.

Miss Paul later came to feel that the Equal Rights Amendment should be worded more like the suffrage amendment. I think the suffrage amendment says "the right to vote shall not be denied or abridged on account of sex." It's sort of the same thing.

Fry: The Equal Rights Amendment was revamped in the early forties, wasn't it?

Matthews: I never regarded this revamping as too important. I just felt that by the time we had enough strength to get the amendment submitted by the Congress, perhaps we would have thrashed out whatever was the best form. Miss Paul has always been very much in the background of all of that. I would say that whatever she says about it would be the best source for you.

Fry: Do you know why they revamped it in the early forties?

Matthews: Miss Alice Paul, who drafted the amendment, agreed to revise the wording of it. In the early days of the work for the amendment, I used to go to all of those hearings on it in Congress. I used to answer the opposition. They had quite a few women from a lot of different places who would speak. Usually what I did was to answer the opposition, to tell why we thought we ought to have an amendment to the Constitution rather than have a specific bill for specific ills.

I might say that in those years we were always trying to get additional support for the amendment. In the year 1934 I received an invitation from the General Federation of Women's Clubs, the largest group of organized women in the United States. They were going to have their annual meeting in Hot Springs, Arkansas. This group also had a legislative representative who personally was interested in the amendment. I

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\*On file at The Bancroft Library, University of California, Berkeley.



Matthews: was invited to come and speak for the ERA at that meeting. They also invited a lady to come to represent the opposition. We had a debate. As a result of that conference we soon had the endorsement of the General Federation of Women's Clubs.\*

Then in 1935 we had the annual meeting of the National Association of Women Lawyers, and they endorsed the amendment.

Fry: The Equal Rights magazine, the issue of September 8, 1934, with you on the cover because you were the new president of the National Association of Women Lawyers, lists you at that time as general counsel of the National Woman's Party.

#### Settlement for the "Old Capitol"

Matthews: There came a time when the government wanted the building of the Woman's Party. They had a building which was called the Old Capitol.

Fry: It had at one time been a capitol?

Matthews: It was never officially owned by the United States, but during the War of 1812 the British marched in. There was very little opposition. The British burned both the Capitol and the White House, not to any great extent, but enough so that sessions could not be held in the Capitol. The citizens of Washington didn't want Congress to move away. So in order to have a place for them, they erected this building (the Woman's Party building). The building was on First Street facing the Capitol, right where the Supreme Court is now. The building was afterwards always known as the Old Capitol. President Monroe was inaugurated there. Congress was housed there until the Capitol was restored. Congress then moved back into the Capitol. During the Civil War the Old Capitol was still there. Prisoners were kept there. Mrs. Greenhow [Rose O'Neil], who was a spy for the Southern forces, was imprisoned there. Her picture was made outside of the building.

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\*Judge Matthews' speech made at the council meeting of the General Federation of Women's Clubs, May, 1934, was printed in Equal Rights, August 18, 1934. See appendix.



Matthews: In order to obtain the building, the government instituted a condemnation proceeding. At the trial, the Woman's Party wanted a good price, and of course the government didn't want to pay them very much for the building. I represented the Woman's Party in this contest. We claimed that the building of the Woman's Party had a historical value, that its history enhanced its market value. We had some very good witnesses come and testify. There was a man in Washington, Harry Wardman, a big builder. He was one of my witnesses. He got up and said, "This is the world's choice lot!" [Laughter]

The government filed the suit, and the Woman's Party had to defend it. Wardman testified for me, and then a strange turn of events occurred. The government claimed that the building wasn't really the Old Capitol because the Old Capitol was torn down. And even if it was the Old Capitol, said the government, it had been changed so it had no historical value. Another thing they said was that it was laid in flemish bond. This referred to a particular way of doing the brickwork. After the government put on their testimony that it was laid in flemish bond, and they had produced a picture from which you couldn't tell very much, I went around through town with Miss Maud Younger, who worked with me on the case. We found the man who inherited the Civil War collection of photographs by Brady [Mathew B.], the celebrated Civil War photographer; and in his collection we found a picture of Mrs. Greenhow taken while she was a prisoner in the Old Capitol. The picture was made of her standing on the outside of the building. There, as plain as could be, you could see that the bricks were not laid in flemish bond but in common bond. So I produced that picture in court so that the jury could see.

We had a very interesting time. There was a senator from Arkansas, Senator Caraway [Thaddeus H.], who was very much interested in historical buildings. He came down and testified. There was another man, Congressman Rathbone [Henry Riggs] from Illinois, who was interested in history. (It was one of his relatives who was an officer at the time Lincoln lived. This relative was with Lincoln and his wife in that box in Ford's theater when the tragedy occurred.) This Congressman Rathbone was a witness at the condemnation trial. Although the jury didn't divide their award into elements, like so much for the land and so much for the building and what not, I'm sure they included something for the historical value of that building.

A bill was introduced in Congress by some of these people that I have mentioned--I'm not sure whether it was Senator



Matthews: Caraway or not--to halt the condemnation of the Old Capitol while these proceedings were going on. That was very exciting. The bill fell into the hands of non-supporters. Former President Taft was then on the Supreme Court and of course he wanted the government to take the building. I went to see Taft too about saving this building. Taft, of course, hated to put the ladies out of the building, but he said that the Executive was housed suitably in the White House and that Congress was suitably housed--they had the Capitol and the office buildings--and he said that now the Supreme Court should be suitably housed too, and the government wanted that site for the Supreme Court.

Fry: Why couldn't they have taken something less historic?

Matthews: Well, that's what we thought, but the government wanted that building, and so they took it. There was a lot of land there. Mrs. Belmont [Alva] had hoped that we would put up a fine building on this land that women could come to from all parts of the world. The government's lawyer, Mr. Glassie, said that I had had a picture taken of the garden of the Woman's Party property with flowers and trees and shrubs, and that I had made it look like the Luxembourg Gardens in Paris.

Fry: Trick photography!

Matthews: Well, it wasn't, but that's how he explained it. Anyway, we had an interesting time.

#### Purchase of Belmont House

Fry: Did you get what was considered a good settlement?

Matthews: The Woman's Party considers that all its property is very valuable, and today you wouldn't think it was a good settlement. But at that time it was a few hundred dollars short of being \$300,000

It enabled the Woman's Party to take the money and buy other property--Belmont House. There was a coach house connected with the Belmont House and it was made into a very nice library on the ground floor. Miss Du Pont, of the Du Pont family from Delaware, was the architect for the library. Now the basement of this house was large enough to have filing rooms and cabinets





Matthews: and places that one could do work. On the first or main floor were receiving rooms, parlors, and things of that kind; and the kitchen and dining room were located on the first floor; and on the second, third, and fourth floors they had bedrooms.

The National Woman's Party bought Belmont House for \$100,000, but they had to spend some money to put it in condition. They put it in first-class condition. It was gone over thoroughly from top to bottom. It was beautifully restored, refurbished and all. That was in 1929, forty-five years ago. Today it needs a lot of things done. Now again the Woman's Party has to fight off the government all the time to keep the Belmont House, because there have been a number of bills to take this property the Woman's Party has. The government did take two houses, the two residences that the Woman's Party had on the same side of the street on which the library was located. The library was made out of the coach house, as I said before.

Fry: The mentioned two houses were for the Senate Office Building parking lot, wasn't it?

Matthews: Yes, you might say so.

Fry: I guess during Alice Paul's efforts to get this named a national historical monument by the Department of Interior you were already on the bench, weren't you?

Matthews: Yes, I didn't have anything to do with that. Mrs. Belmont had an idea that we would take the site of those two houses and we would build a small auditorium there, and we could have meetings in it and other people could use the auditorium for meetings too. We could have offices over there and use the Alva Belmont House for special occasions. Now those two houses have been taken down by the government.

Fry: I guess I've always seen it, in that location, as an excellent place for any kind of center for work for women's rights, particularly for lobbying on whatever bills happen to be going through Congress.

Matthews: Sometime there's very little notice. Miss Paul always wants us to hang on to it, hang on to it. But the Alva Belmont House is getting old. The building is spoken of in connection with Lord Baltimore. He is said to have had something to do with it. I believe there was someone in the Baltimore family who married into the family that had the building when the British



- Matthews: came in the War of 1812. The British were fired on from the Alva Belmont House. Because they were fired on, the British set fire to it. I don't think it had to be rebuilt in the sense of having to build from scratch, but it was damaged and a lot had to be done to it.
- Fry: It's a fascinating house. I'll be glad when we can stay there again.
- Matthews: Have you ever stayed there?
- Fry: Yes, when I can. Right now it's closed. You can't use the library either.
- Matthews: A woman called me from Wisconsin, a woman lawyer, and told me she was assistant to the attorney general of Wisconsin. I didn't know her at all. She wanted to get something out of that library. I told her that if she wrote she would get it in time. She did write, and she got a reply.

When she called me, she spoke of a case that she was handling for the attorney general of Wisconsin. He wanted to take the position that a married woman must take her husband's surname and she could not continue to use her own. This woman lawyer was opposed to that--she wanted materials on a contrary position. She told me that she had heard that I had once written a brief on this subject. I told her that I was sure that I had, but that I had no copy. I don't remember what I said in the article, but I was sure that I had written one. She was trying to get it. She later told me that she got the article and that it was something published in Equal Rights.

I had my secretary call up the Woman's Party headquarters one day and ask for something that Abigail Adams had said to her husband, John (the president of the United States). Abigail had said to him, "I charge you will remember the ladies; and if you don't, the ladies will foment a rebellion." The lady who was in the library at Belmont House sent it. The truth of the matter is that Mrs. Belmont gave all of her books to that library.



## FINAL MEETING OF THE WOMAN'S PARTY AS A SUFFRAGE GROUP

- Fry: I'm going to go back to the final meeting of the National Woman's Party as a suffrage group in February 1921. Someone told me that in the discussions about where to go from here Jane Addams spoke for merging with the Women's International League for Peace and Freedom. Do you remember anything about that?
- Matthews: No. I wasn't cognizant at that time of that peace and freedom movement. I never belonged to any organization that was interested in peace and freedom and so on. The only thing I remember at all about that meeting was that it was held in the Washington Hotel. They had a discussion about just what to do now that suffrage had been won and where they would go from there and what they would do. This thing [ERA] may have come up. I don't know. I don't know who would have a report on that.
- Fry: That must be somewhere in their records. I was intrigued that this was ever even considered right at that moment.
- Were you on the delegation that went to see President Harding?
- Matthews: Yes, I was.
- Fry: That was April of that same year [1921].
- Matthews: We went to see him, and I did have a picture of the group that went to see him. I don't know if I could find it now; but I remember that Mrs. Battelle, a very wealthy, prominent Ohio woman was there. (They had a Battelle Foundation out in Ohio that gave a lot of money for charitable causes.) I believe she was the one who got the appointment for us to see President Harding. I know we were in the garden where one of the pictures was made. I remember they had a picture of that in the movies later on, in the newareel. I saw it once when I went to the movies.
- Fry: I'm a little puzzled about why you went, because according to my chronology this is before a resolution was passed for the Equal Rights Amendment and all that.
- Matthews: I could be wrong about the date, but I think that was the date



Matthews: because I remember the picture. I've got a copy of that picture. I'll try to look it up for you. It shows the ladies with him. A lot of them I recognize. I remember Mrs. Battelle dressed rather severely in black and Helena Weed, I think, was there. There are a lot of women in that picture whom I recognize.





## TAPE NUMBER II

ERA: ENDORSEMENT BY THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS AND THE NATIONAL ASSOCIATION OF WOMEN LAWYERS

Fry: Let's go back to your part in getting such groups as the National Federation of Business and Professional Women to support ERA.

Matthews: The Equal Rights Amendment was supported by many business and professional women. They felt that it was harmful to women to have labor legislation that put them in a class by themselves. They felt that it would be better if they had labor laws based on the nature of the work and not the sex of the worker. For a long time there were groups in the National Federation of Business and Professional Women who took that position on this labor question. Mrs. Jane Norman Smith in New York, whom I mentioned to you was handling the legislation regarding rights of women, was also working on groups of business and professional women to try to get their support for the Equal Rights Amendment. She wrote me a letter, I think it was about in the early part of 1937, and told me that she thought these groups were very close now to coming in to support the Equal Rights Amendment.

There were women in the National Federation of Business and Professional Women who were not for the amendment. One of them was Miss Charl Williams who was the president just prior to the 1937 election. She was from Tennessee. Anita Pollitzer and I were invited to the annual meeting of the National Federation of Business and Professional Women's Clubs which was held in Atlantic City in 1937. One of the reasons why we were invited to speak was that Mrs. Roosevelt was sponsoring something called the Women's Charter. This Women's Charter was supposed to promote equal rights for women except where women should have



Matthews: special protection for biological reasons. [Laughter] So there were two women from each side invited. One of those on the other side was Miss Dorothy Kenyon. They called her Judge Kenyon. She was for a short time a municipal judge in New York City. Anyway, she was the one who spoke for the "charter." Anita Pollitzer and I spoke against it. We took occasion in our speeches to urge the Equal Rights Amendment.

Somewhere in Equal Rights there is supposed to be a statement about what I said on this occasion.\* Those who were for protection said we couldn't bring up the Equal Rights Amendment because it had to be this, that, and the other way, and had to go through committee. At any rate we did so well that the girls who were against special protection got all the rules suspended. So the federation not only didn't support the Women's Charter, but they voted at that meeting in 1937 to endorse the Equal Rights Amendment. That's when they came in as endorsers of the ERA. It was wonderful that we were able to do that. Anita remembers that because she and I were there. A lot of those girls who were delegates to that annual meeting were Woman's Party people, and we had a meeting just about every thirty minutes all night long.

At that time I had been a member of the National Federation of Business and Professional Women. They didn't have any organization here in Washington; and I had joined the one just over the line in Virginia, in Arlington or Alexandria, one of them. Then I found it was such an effort to get back and forth to those meetings that I dropped out. When it was organized here in Washington, all of the people who were for protective labor legislation were the ones who got in on the ground floor. So when they got in, they didn't invite the ones who were for equal rights. But we did join later on.

At any rate, that's how the endorsement came about in Atlantic City in 1937.

In 1935 we got the endorsement of the National Association of Women Lawyers of the amendment. Mrs. Clarence Smith in New York was just overjoyed because this was a particular project

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\*"Equality Versus Protection." Speech against the Women's Charter delivered before the Biennial Convention National Federation of Business and Professional Women's Clubs, Atlantic City, New Jersey, July 23, 1937. Reprinted from Equal Rights, August 15, 1937. See appendix.



Matthews: she was working on. She had been in contact with women in different parts of the country.

#### PROTECTIVE LEGISLATION: HARMFUL EFFECTS

Matthews: One of the points that the opposition stayed with was the business about the protective labor legislation. Now you know the person who was the head of the Women's Bureau in Washington was Mary Anderson. Mary Anderson was all for protective legislation for women.

About this time the question came up of the char women who were working at Harvard University. Massachusetts had a minimum wage law, but it wasn't of the type that many other places had. In effect, it was that if a person didn't pay the right minimum wage, the fact would be advertised in the paper. A board passed on what was the right wage--I think it was 35¢ an hour, somewhere along there. Some women had worked there for fifteen years. One woman had worked almost twenty years. Do you know that Harvard University wouldn't pay that few cents differential to those women? They fired those women; and they gave their jobs--do you know to whom?--to men who were willing to work for that 35¢ or whatever it was an hour they were paying them at that time.

You remember Heywood Broun, don't you? His wife, his first wife, Ruth Hale, was a good friend. Her son, you know, is well known as Heywood Hale Broun. He's on television for sports.

Fry: So he took his mother's name. Wasn't she the one who was campaigning for women to keep their own names?

Matthews: Oh sure. She belonged to them. At any rate Heywood Broun wrote a book. I have a copy somewhere of what he wrote about this law, this minimum wage law.

Another point is that women who belonged to the union, the American Federation of Labor, were working in newspaper offices. A law was passed that said women couldn't work at night. When this law was passed and women couldn't work at night, they lost their jobs. Under the union rules, seniority had something to do with picking the particular shift you would have. So when this law was passed, the women were all thrown out of work and



Matthews: had to go somewhere else. Some of the women who belonged to this group told me that they spent about \$25,000 to get this law changed, and they finally did.

There's no question but that laws were passed for the purpose of doing away with competition from women.

Fry: The whole character of the controversy over women's rights seemed to change during the Depression, according to the issues of Equal Rights that I read. There was an awful lot about the NRA [National Recovery Administration] codes.

Matthews: Not only that, but at one time there was some proposal that a husband and wife couldn't both hold government jobs. At that time Garner [John Nance] from Texas was the vice-president. He had his wife working in his office at a salary. He thought that was perfectly all right. But at the same time he wanted to put other women out. At that time I represented a woman who had some small position, I think, in the Government Printing Office, and her husband didn't work for the government but was in the armed forces. She was fired and had her job taken away from her under this law. Finally a government workers' council was organized which fought this law and finally got rid of it. But it was one of the things that we struggled over in those years.

Fry: I noticed here on a note that on December 28, 1935 there was a married person's clause called Section 213.

Matthews: That's what I'm talking about.

Fry: In this case, the National Woman's Party called a Sixth Eastern Regional Conference of the National Woman's Party to help pass a bill HR 5051 to nullify this Section 213 of the Economy Act.

Matthews: Congress finally got rid of it in that. They did away with it. A lot of husbands and wives were affected by that.

Fry: In the East here there was that funny business about the interstate tax which got around the NRA regulations. There were laws regulating wages and hours of women but not of men. That was part of NRA as first drawn up. I don't know whether that lasted or not.

Matthews: I don't remember too much about the NRA, but they had some cases that dealt with the NRA in court. I think some aspects





Matthews: of it were declared unconstitutional. I don't remember that they had anything special about differences between men and women in the labor regulations.

Fry: I was wondering if you were in any of the Woman's Party groups that was attending all the hearings for the two hundred plus codes that were being developed in the early days.

Matthews: I remember that when I was president of the National Association of Women Lawyers, we had an article in our journal on the codes.\* I don't know what it said, and I don't know whether it would be of any use to you; but I could send it to you if you want it.

Fry: That would be very good. Later on Jane Norman Smith said, in September 1934, that the codes applied to all workers, that wage scales for women were lower than those for men; men were included in the wages and hours regulations though. And she said, "On the one hand the administration has established codes embodying the principal of equality of men and women, and at the same time it's using its powerful influence to create laws which would deny that principle."

The latter might refer to these interstate compacts that were being allowed. But you don't remember having worked on that?

Matthews: No, I don't remember having worked on that.

#### DETOURS FROM ERA: INDIVIDUAL STATE LEGISLATION

Fry: Did you notice any general slump in activities for feminism in general, equal rights?

Matthews: When they were working for the Equal Rights Amendment, these agitations about women's jobs and women being thrown out of jobs were just little detours. And there were always detours

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\*Anderson, Mary. "Sex Differential in Minimum Ratio under NRA Codes," Women Lawyers' Journal II (1934):2, p. 29. Includes a very complete table of NRA and AAA approved codes that set lower wage rates for women than for men (p. 57). On file at The Bancroft Library.



Matthews: because things would come up about which we would think something just had to be done.

There were teachers who felt they were targets of discrimination. We got bills through a number of states providing that in teaching there should be equal pay for equal work. We got such a law through in Maryland, we got such a law through in New Jersey, and in New York.

Fry: Was this the National Woman's Party that was working in the individual states like this?

Matthews: Yes. They started right after the suffrage amendment was adopted. They voted to continue to work to improve the status of women. Then they began finding out what the laws were, getting bills drawn up. A lot of times there were women in the states who knew what the laws were, knew what had to be corrected.

I remember that one time I went all the way to Michigan--the women there wanted someone knowledgeable about a bill that was designed to get full contractual rights for married women. If a woman were not married, she could just contract freely except insofar as the labor laws were concerned. But when she was married, it was a horse of a different color. In the state of Texas and in a number of other states, if a woman married and wanted to engage in business, she had to go into court. Her competency would be enquired into, and then she might be allowed to be what is called a free trader. When Mrs. Ferguson [Miriam A.] was elected governor of Texas, she went into court and said that she would like her disabilities as a married woman removed in order that her contracts as governor might not be called into question. And this was done! The court gave her what she asked for.

Fry: Is that what Michigan had?

Matthews: Michigan had just a simple bill to allow married women freedom to contract. You know very often a woman couldn't be surety or guarantor and this or that or the other thing; and many people would say, "Why does she want to be a guarantor to anybody anyway?"

Well, there were many reasons. Suppose you had a son that you wanted to send to college and he didn't have much money and you wanted to go on his note. He was twenty-one, and you could be a guarantor in some places like Mississippi



Matthews: where they gave full power to contract. There a woman, if she signed a note, knew well that she was going to have to pay it if the principal didn't.

It just seemed strange to me that the lawmakers thought they shouldn't allow women freedom to contract in Michigan. One man in the legislature got up and said that women in Michigan were going about their duties, preparing their evening meals, and had no idea what terrible things this bill proposed to do to them. Why it would allow them to contract like any other person could! When the legislators didn't want to give the wives something, they made the husbands out as awfully bleak. They said a husband would get his wife to sign his contracts and liabilities.

Some states, Florida for instance, were actually saying that a married woman's promissory note was just like a blank piece of paper. It had no validity at all.

Fry: Really!

Matthews: Oh yes. They said that it's all down in black and white. In Michigan women felt that they wanted to have freedom to contract the same as anyone else. They lost it. It was funny to me because Mississippi had this long, sweeping provision that a married woman could contract freely, the same as if she was unmarried. They put it in their law! Not only that, Tennessee came along and copied that law. They had the same law there. But you couldn't make any impression on the men in Michigan. They just felt they had to protect the women from the capacity to contract.

Then there was the problem of community property--as in Nevada.

Fry: Isn't that the thing that the western states inherited from the old Spanish law?

Matthews: Not only Spanish law, but the Code Napoleon too. Nevada had a rule that after marriage whatever is gained by the labor of the husband or wife belonged to both. For instance, Mary Pickford: her income when she was married, was community income. It belonged to her and her husband. What he earned belonged to the two of them too. But the darndest thing was that California never wanted actually to give the married woman any real right in community property. Oh yes, that's true.



Matthews: At first they said, "Oh yes, it's community property, but the husband is head and master of the community. He controls the money and the income." He did all of that. Then they got around to saying that the husband's right to the community property was an absolute right, but that the wife's right was an expectancy like the right of inheritance.

California didn't want the wife to have to pay any income tax on community income. The question finally got to the Supreme Court. The Supreme Court very properly said, "It's just an expectancy. It's not an absolute interest." Then California came around and said she should be exempt from the tax out there. California was still reluctant to give the wife an absolute interest. They finally passed a law, however, that said that the wife has a present existing interest in the community property. Then when they did that, they gave the women the benefit.

Fry: And the men didn't have to pay full income tax.

Matthews: The men didn't have to pay full income tax, and when the man died she didn't have to pay the full tax on the property; but half of it belonged to her, and therefore he would have to pay on her half when she died. There were a lot of other things.

But going back to Nevada, I was going to tell you about the senator from Nevada.

Fry: Pittman [Key]?

Matthews: No, Pittman is a Mississippian.

Fry: He wound up as a senator from Nevada?

Matthews: Yes, he did. He went out there.

Fry: Did you know him?

Matthews: Yes, he was here [Washington] a long time. There were a lot of men from Mississippi who went West and came back to Congress representing the western states.

Nevada didn't even require the wife's signature to give away community property. So a senator decided he would give an opera house that he owned to the city, but his wife said, "No, I'm not willing to give that opera house to the city."





Matthews: She contested it, and Nevada didn't do a thing but say that he was within his rights. He was the head and master of the community property. So what good did it do the wife to have an interest in the community property? Now the laws have been bound a little tighter, and more and more individual rights have been granted to women.

There was one case in California where a woman tried to divorce her husband on the ground that he didn't support her. It developed that she had worked and he had allowed her to keep her wages. It was held that since he was entitled as head and master of the community to have her wages and he allowed her to keep them, he had in effect supported her; so she didn't get the divorce.

There's a lot of history to this community property thing. There are about eight states that have the community property law. But now I think that presently in California there has to be a consideration for any disposition of community property; and if there isn't, the wife can retaliate by trying to upset it. And I think that now Nevada probably has something, too, that's different from what I described; however, what I stated was an actual case.

Fry: Was that about the thirties that the senator wanted to sell his opera house?

Matthews: I'm not sure exactly what year that was, but I have that written up in a pamphlet.

#### DEVELOPMENT OF BURNITA SHELTON MATTHEWS' WORK

Fry: I wish you would give me the general context in which you worked with all these cases. You had a law office, a private law office, here in Washington; is that right?

Matthews: Yes. Miss Paul, right after the meeting in the spring of 1921, would ask me if I had time to go to the library and look up something for a particular lady who was here in Washington, about this or that bill and the law of her state, much like the Louisiana one that I was telling you about. So I did. I wasn't very busy then--I had just started practicing law, and I was right there at the courthouse. But the judges sometimes would appoint lawyers to cases in which they could make some



Matthews: money, like being guardians, personal things. At any rate, I wasn't busy, having just opened an office, so I did quite a little bit for them just on the basis of helping out.

Finally, though, Miss Paul would ask me to do more and more, and it got so I just couldn't give so much time. So she engaged me to oversee this work. In the beginning the Woman's Party didn't have anybody to oversee. There was a Sue White who had looked up a few things for them, but she was working for Senator Kenneth McKellar of Tennessee at that time. So I started being the overseer. This was in the late fall of 1921. In 1922 Miss Paul was extremely anxious to get the material together. As you know, research is very slow. So she engaged a lot of women lawyers, about ten I think. I supervised all of these girls who worked on it. As we worked we assembled much material together, all in an effort to determine what course we should take, what laws we should work on, etc. I had a lot of time, as I said, so I did that for several years.

Then I told Miss Paul I'd like to get my own practice of law started and spend more time on that. I did and spent a lesser amount of time with the Woman's Party. Yet I continued working on women's rights even when I severed that connection completely. I still helped out. I went to the hearings on these different bills.\* I sent material out to women throughout the United States in the different states where they lived.

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\*The statements of Burnita Shelton Matthews, chairman of the Lawyers' Council of the National Woman's Party, and of several other prominent women, at three such hearings, are contained in the following documents which are on file at The Bancroft Library.

U.S. Congress, House, Committee on Immigration and Naturalization, Amendment to the Women's Citizenship Act of 1922, and for Other Purposes: Hearings on H.R. 14684, 14685, 16303, 71st Cong. 3d sess, 17 December, 1930, and 23 January, 1931.

U.S. Congress, House, Committee on Immigration and Naturalization, Relating to Naturalization and Citizenship Status of the United States, and Relating to the Removal of Certain Inequalities in Matters of Nationality: Hearings on H.R. 3672 and 77, 73rd Cong., 1st sess, 28 March, 1933.



Matthews: Then when the property of the Woman's Party was condemned, I think in 1927, I represented not only the Woman's Party but numbers of other people who owned pieces of property in that same condemnation. There was a block and a half that was taken by the government. The Woman's Party didn't own the whole property. They had the corner, where the Supreme Court is now. They had the corner of what at that time was A Street and First Street. On First Street they owned everything on down to a building that Mrs. Belmont owned. And I represented Mrs. Belmont in the condemnation. Then beyond Mrs. Belmont was the Congressional Apartments, a rather large apartment house. Then I represented some people on East Capitol Street. Miss Maud Younger was in that. She had a house on East Capitol Street. I represented her, and I represented a Mrs. Legare O'Bear.

Subsequent to that there were other condemnations in the area, separate and later. One of them was for an addition to the Library of Congress, that's the big white building in back of the Library of Congress. I represented a lot of people in that condemnation suit.

Then I began representing a great many people in other condemnations. There was a condemnation at the foot of the Capitol. I represented the owners in that case. I was always interested in land law. Some people think it's a very dry subject.

Fry: I think that's fascinating.

Matthews: It's interesting in a way. I had a lot of people come to me from different parts of the city, and I handled their cases.

I had a younger brother who was a lawyer here. I brought him up here from Mississippi. He was not a lawyer when he came; he was just out of high school. When he came, he told me he wanted to be a banker; but he soon got tired of working in the bank because he became aware that every time there was an opening that was a worthy one, it was filled by some one of the officers who had a nephew or son or somebody whom he wanted to place in a position of importance. So he finally decided he would study law. He went to law school to study law. He graduated and finished the bar exam about 1931. He became interested and involved in land law.

Fry: Was he in your office?



Matthews: He was for awhile. But I had a teacher when I was in the law school who was very courteous to me and very fond of me. He was a man who had a tremendous amount of law work that dealt with land and receiverships and things like that. I felt I didn't have enough business in my office to give my brother full-time work. So I asked my former law instructor to take him. He didn't take him immediately, but about six months later he did. My brother was with him for some time. And by and by he became so knowledgeable and was so pleasing that most of the calls that came into the office were for him. This was the youngest child of my mother. (His name was Edwin Shelton.) He died in 1972 in August. It seems amazing that I am still living and he is dead. He was a very successful lawyer in that particular field.

Fry: What was the name of your law firm?

Matthews: It was called Matthews, Berrien, and Greathouse. I spoke to you about Rebekah Greathouse. Both of those women are dead now.

Miss Laura M. Berrien was an older person than I. She was active in the Woman's Party too, and was a very loyal member. She was a tax lawyer. She held a high-ranking position in the Bureau of Internal Revenue, at that time about the highest of any that a woman had held. But when Mr. Franklin Roosevelt came into office as president of the United States, a great many people were fired. "Fired" is not really a good word here. The term used was "reduction of force," and this was done in order to get their jobs to give to someone else who was waiting for them. When Miss Berrien left Internal Revenue as a result of this "reduction in force," she came into my law office.

Mrs. Greathouse was an assistant United States attorney. After she left the United States Attorney's Office, she came in with me too. She had a husband who was a chemist. He accepted a position in New Orleans. Since she always put her husband first, ahead of everything, she went with him to New Orleans.

Fry: Where did Mr. Matthews [Percy Ashley] come into your life?

Matthews: We went to high school together.

Fry: Oh, that early!

Matthews: That early. I met him there.





- Fry: When were you married?
- Matthews: We were married just about the time the war came on. But he immediately enlisted in the service and went away. He didn't show up again until long after the war was over, the First World War.
- Fry: You say, "He didn't show up again." You mean he stayed in for a long time.
- Matthews: He was in for quite awhile. He went into the service in 1917. War was declared in 1917, and I think he came back maybe in 1919, or it might have been 1920. It was a little while before the government brought all the servicemen back home.
- Fry: When he came back, you were involved in law school and suffrage activities.
- Matthews: I was. He was already a lawyer. After I finished the teacher's course at the Cincinnati Conservatory of Music, I taught for several years. All this time that I was teaching, he was going to law school. So he was a lawyer before I was.
- Fry: Did you practice together?
- Matthews: No, we never practiced together. He was interested in different types of cases from what I was. So therefore we never practiced together.
- Fry: Was he here in Washington?
- Matthews: Yes, he was, sometimes. He was in the Judge Advocate General's Department. He was a judge advocate in World War II. Of course he was away a long time then. He was sent abroad and was there for many years. After the war abroad was over, there were people from the Judge Advocate General's Department overseeing foreign areas that the United States had taken until these areas could be turned over to the proper occupation forces.
- Fry: I get the idea then that really you were able to function rather independently.
- Matthews: Yes. I had no children and I had this brother whom I was telling you about. He was here.



## FEDERAL JUDICIAL APPOINTMENT

History of Women in Judgeships

Fry: Tell me about your judiciary appointment.

Matthews: About the year 1949 Mr. Truman [Harry] was the president, and there was quite a bit in the newspapers at that time about thirty new judgeships that were to be created. So a lot of women thought that women should now have some recognition in the federal judiciary. At that time no woman had ever served in a federal trial court. The federal trial courts are called United States District Courts all over the country. The whole United States is divided up into eleven judicial circuits comprised of a certain number of states, and the states are divided into districts. For instance, New York has four United States District Courts (Eastern District, Southern District, Northern District, and Western District). The District of Columbia is the only one which has the name of the place. This is the District of Columbia Circuit. The other circuits go by numbers, first, second, third, fourth, fifth, etc.

Fry: I think we're sixth [California].

Matthews: California is the ninth. Ohio is in the sixth.

Anyway, at this particular time, in 1949, there had never been a woman who served as a United States district judge. Now it's true that there were certain judgeships which had been filled by women. For example: In 1928 President Coolidge [Calvin] had appointed Genevieve Cline to the United States Customs Court. The United States Customs Court was a part of the executive department of government. It wasn't considered a part of the judiciary as spoken of in the Constitution. At the present time the United States Customs Court is a part of the federal judiciary. It wasn't at the time Judge Cline served. She was serving in 1949 in that Customs Court judgeship.

Judge Florence Allen had been appointed by President Roosevelt in 1934 to the United States Court of Appeals for the Sixth Circuit. She was the first woman ever to be appointed a judge on the United States Court of Appeals.

Fry: Was this in 1934 or 1944?



Matthews: 1934. There had been several women who held judgeships connected with federal taxes. The first one was Anabelle Matthews of Georgia. She was appointed to what was then called the United States Board of Tax Appeal. It's now called the United States Tax Court.

After Anabelle Matthews served, there was another woman appointed and she was serving in 1949. She was a woman from California, Miss Marion Harron. The United States Tax Court was not a part of the federal judiciary, but a part of the executive department of government; and it still is.

That was the history up to 1949 of United States judgeships insofar as women were concerned.

Fry: Was Marion Harron also a Tax Court judge?

Matthews: Yes, she followed Anabelle Matthews. Other women have followed in both of these courts, the United States Customs Court and the United States Tax Court. But I was trying to tell you who was serving at the time I was appointed. And there was no one other than Judge Cline on the Customs Court, Judge Florence Allen on the United States Court of Appeals for the Sixth Circuit, and Marion Harron who was then serving on the United States Tax Court. That was it. None of those appointments were part of the federal judiciary except Florence Allen.\*

#### Support for Appointment of a Woman as District Judge

Matthews: So I was named then in 1949. Many women's organizations at that time felt that women weren't getting much of an opportunity to participate in anything. For instance, the General Federation of Women's Clubs--which is the largest group of organized women--had a meeting in the West, and they passed a resolution calling on the president, President Truman, to give women more recognition in government. So there were just scores of people who were interested in having a woman receive one of those

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\*See also Maurine Howard Abernathy, "Women Judges in United States Courts," Women Lawyers Journal, 55 (1969), pp. 57-8. On file at The Bancroft Library.



Matthews: judgeships which were then to be filled. Some of the judgeships were created right here for Washington, because they were adding three new judges to the United States District Court [for the District of Columbia] and three to the United States Court of Appeals. I was one of the three new ones that were added to the District Court.

Fry: I saw in the collection of Mabel Vernon's correspondence with Anne Martin a couple of letters that were written on your behalf. One gave Anne Martin an account of the "campaign" for your appointment.\*

Matthews: Oh, yes, letters were written to friends, anybody they knew who had anything to do with judicial appointments or the suggesting or recommending of an individual for these posts. A campaign was on to get everyone possible interested. Mrs. Harvey Wiley was interested, you know; and Mrs. Wiley was a client of mine for years. As a matter of fact I probated her husband's will. A lot of people were for my appointment. The National Association of Women Lawyers and the [National Federation of] Business and Professional Women and many of the individual women in the General Federation of Women's Clubs, they were all for it.

Whenever there was a vacancy, the bar association would send a notice to all their members and say, "If you have suggestions, please let us know." So when they sent this notice out, a great many people sent my name in.

Fry: How did that happen?

Matthews: I had been here [in Washington] a long time, you know. I had a lot of friends, both men and women who sent letters. The Bar Association of the District of Columbia, which is primarily men, recommended me. I don't mean that they took my name and sent it in alone. They didn't. What they would do at that time was they would select several names, usually three for each vacancy. They would take these three names and would send the three names in to the attorney general of the United States. So the Bar Association of the District of Columbia endorsed me-- I was one of three or four persons.

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\*Mabel Vernon to Anne Martin, February 10, 1950. Appendix.





Matthews: After I was nominated by President Truman, the Judiciary Committee sent out letters to different legal organizations relative to my qualifications and capabilities. They sent one to the American Bar Association, and the association recommended me. I had been a member of the American Bar Association for quite a while, since 1924. Then a letter was sent to the Federal Bar Association, and they recommended me.

Mrs. India Edwards was at that time head of the Democratic women [Women's Division, Democratic National Committee]. I read an article that stated that a list had been compiled of those who were to be suggested for the appointments, and that my name wasn't on this list. So India Edwards put on her bonnet and went to the White House and told Mr. Truman that it just wouldn't do for this list to be submitted without the name of a single woman on it. So my name became a part of this list, and it was sent up.

Fry: Before your name was on it, India Edwards "put on her bonnet" and went over to the president?

Matthews: That's what the article said. I don't mean that when it went before the bar association it did not have my name on it. I mean President Truman's list of names. The rumor was in the papers that President Truman was going to send up a certain list and who was named on the list. My name was not included. When India Edwards saw that, the story said, she "put her bonnet on" and she went over to see Mr. Truman. When Truman was president, she could get in there any time. She didn't have to make an appointment. She could go there and get in. There are very few women who have been able to do that in any administration. But she could and did. Now the woman who followed India later on, a lady from Minnesota, I don't know if she could do it. She's a nice lady, but she just didn't get in to see Mr. Kennedy [John]. I don't know why. At least that's the rumor around Washington.

At any rate, the article said that Mrs. Edwards did go and she told the president what to do as far as the woman question was concerned.



Meeting with President Truman

Matthews: After I was nominated, I had an appointment with Mr. Truman. I got the appointment through a military man that I knew who was in the White House. He was serving Mr. Truman. Lo and behold, when I got to the White House, I found that whoever had given me the date had given me the wrong date; and it was the day following. When this mix-up came about, I noticed a red-haired girl coming in, and I recognized her as the girl who used to be my secretary. She was working for Mr. Truman. She threw her arms around me and said, "You come right in." I did. And I had my meeting that day.

Fry: Tell me about your meeting with Harry Truman.

Matthews: He said something to me about India Edwards. He said, "Now I don't know if you would consider this a compliment or not, but India Edwards works like a man." He didn't tell me anything she said about me, but he did say, "If she comes in and asks or suggests that something be done, that a certain appointment be given, well, I try to go along. But if I can't, she doesn't hold it against me, she doesn't have a grudge about it. She goes out and finds something else, and she comes back on. And she suggests another woman for some place. She works like a man."

What President Truman did say to me was, "Now, long after I'm gone from this place, people who were named as federal judges will be serving. The only thing that I ask is that you give the best service that you can. I will just feel wonderful if that's the case." That's all he said.

Fry: Were you a Republican?

Matthews: I just voted for whoever was the best person. In articles it was stated that I was a Democrat, but nobody asked me if I was a Democrat. I didn't say I was. But it was written up at that time that I was. I was surprised really at the tremendous amount of publicity that my appointment received. I guess I ought to have been prepared for it, but I wasn't. The truth of the matter is that I was on the front page of the Washington Post with the headline. I was on the front page of the [Washington] Evening Star. Both of them gave me a big write-up.

Fry: Did you have reporters clamoring at your front door and the whole bit?



Matthews: Yes, I did. I had a lot of people after me.

The Bench: Duties Over the Years

Fry: Can you talk about the bench enough to give me an impression of how you feel you fitted in?

Matthews: Yes. I'm speaking now of the time when I went on the bench. It's different now. Since this was federal territory at the time when I went on the bench, the court in which I sat tried practically everything there was to try in Washington. They had some local courts, but those had only a very limited jurisdiction. I don't know whether the limit then was \$1,000 or \$3,000. But it was a very small limit on the amount that was involved. These local courts could try misdemeanors, but the court that I was in had all the major criminal cases; it had all of the murders, it had all of the rapes, it had all of the house breakings, it had all of the robberies unless the robbery was something like an assault. It had all of the criminal jurisdiction there was to have except misdemeanors.

Then it had all types of civil jurisdiction in addition to the usual jurisdiction that they would have in any federal court. They had all this local work. We even had divorce. All the divorce cases were in the United States District Court. The Federal Judiciary finally worked on Congress to get the divorce jurisdiction sent to a purely local court, not a federal court, and Congress did approve the change. And through the years Congress gave other jurisdiction to the local courts. But we had practically everything.

There was another type of case we had. When people got ready to sue a member of the president's cabinet, and plenty of them were sued, our court was the court in which the case was filed. For instance, if someone wanted to sue an agency like the Interstate Commerce Commission, this would be the court where he would go. If the secretary of state didn't give somebody a passport, and a person thought he ought to have it, our court was where this matter landed. I once had Paul Robeson, the singer, who was seeking a passport. I didn't give him his passport. Courts have become much more liberal about granting passports since that time.



Matthews: Then we would have all sorts of questions relating to immigration and citizenship, things of that kind. Once I had Dick Haynes, the former singer and movie star. The government was trying to deport him. He was a singer who was married at one time to Rita Hayworth, a Hollywood star. Rita Hayworth was in Hawaii. That was before Hawaii was a state. Dick Haynes went over there to see her. He wasn't married to her then. When he came back, the government tried to exclude him on the grounds that--you know, he was not a citizen--he had filed a claim for exemption from serving in the armed services. I didn't think he had been out of the United States. He went on a United States boat. Hawaii was after all a possession of the United States.

We had all kinds of cases. Many times the secretary of agriculture would issue orders about milk matters, the treatment of milk. We had a lot of National Labor Relations Board cases where they deal with unions and things like that.

I became what is called a senior judge. I became a senior judge in 1968. A senior judge is one who has enough service and enough age to be able to retire.\* But the law goes on to say that a senior judge continues to hold his office and may continue to serve if he is able and willing to. But, it says that you have to be designated to serve by the chief judge in the court where you are sitting. You are also allowed to serve in any other federal court that wishes your services, if agreeable to you.

Every year since I became a senior judge I have been asked by the chief judge of my court to continue to serve, and I do--but not to the same extent that I did before. In addition to that I have been invited by other courts to serve. The chief judge of the United States Court of Appeals for this circuit has invited me to serve on the United States Court of Appeals.

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\*"Judge Matthews Steps Down," The Washington Post, Feb. 8, 1968, p. A20. On file at The Bancroft Library. Also included in Appendix.

"First Woman U.S. District Judge Retires Today," The Daily Washington Law Reporter, 96:43 (March 1, 1968), p. 377. Cites important cases on which Judge Matthews gave decisions. These were not cases pertaining to women. On file at The Bancroft Library.





Matthews: I accepted the invitation for several years, and this present one [1973] I have not yet accepted. I had a number of cases that I sat on with two other judges in these panels, since the U.S. Court of Appeals has to have three judges on each panel. So I'm still working on some cases now of the Court of Appeals.

I was invited to sit in the United States Court of Customs and Patent Appeals here in Washington. I agreed to. They had a chief judge, by the way, who was born in Oklahoma, but he was living in Texas at that time. I sat on occasion during two years in that court. To sit on the United States Court of Customs and Patent Appeals, you have to be designated by Chief Justice Burger [Warren E.]. He used to be on the United States Court of Appeals for the District of Columbia Circuit, right there in the courthouse in which I sit.

Fry: I guess you knew Chief Justice Burger?

Matthews: I do know him. I sat on some cases with him. Some cases in the District Court require a panel of three judges,\* when certain orders are being reviewed and also when a constitutional question is involved. So I sat with him in such cases before he was named the chief justice. He is a very fine man and an able jurist.

Fry: Have you been happy with your docket?

Matthews: You don't pick your cases.

Fry: It's a very complicated procedure. I've never quite understood it.

Matthews: In the U.S. Court of Appeals, they have a system for selecting cases for each panel. They put the names in some kind of a container. Then they draw the names out. You can't pick your judges.

It's interesting work.

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\*The panel is comprised of one U.S. Court of Appeals judge and two District Court judges sitting as a District Court. Ed.



Changes in U.S. District Court

Fry: In Washington there's such a wide range and variety of cases. Have any changes been made in the kind of cases you handle?

Matthews: Yes. There is a change which has become effective recently. I indicated to you a moment ago that the jurisdiction of the District Court is different now. The president has stated that it would be better for the District of Columbia to operate more like a state. For example, in California, the state courts hear all of the criminal cases that have to do with crimes against the state of California. The federal courts only try those cases in which the crimes are against the federal government. The idea was to make the District of Columbia like the rest of the country. So they have taken now from this United States District Court all the jurisdiction of these criminal offenses under the District of Columbia law and have transferred them to the new local court, the Superior Court. That means that we now have a much smaller number of criminal cases. But oh my, the civil cases they have down in the District Court--there's a tremendous amount of work.

Do you know that one of the great problems of the whole country is the automobile. There are so many traffic accidents. I'm not speaking now of the cases where you determine who is at fault. I'm speaking of the cases where people are suing for damages on the ground that the collision, or whatever it was that caused their injuries, was due to negligence. There have been many, many cases.

Fry: Does that include personal injury? I read somewhere that that's something like eighty-five percent of all the cases.

Matthews: I think it is. In the District Court we are in a kind of state of change now. In August [1973] they will give over to the Superior Court all of the probate work, the wills, the administration of estates, and so on. We've had jurisdiction over those cases too! Of course that's a purely local thing. But the District Court has previously had jurisdiction over these cases.

Fry: That should help.

Matthews: I am kind of sorry to see the probate work leave. They had a wonderful probate office. The administration of the probate office was very, very good.



TENTH CONGRESS OF INTERNATIONAL WOMAN SUFFRAGE ALLIANCE,  
PARIS, 1926

Fry: One of the things I was dying to hear about was the International Woman Suffrage Alliance meeting in Paris.

Matthews: Yes, I was there.

Fry: You were there and Anita Pollitzer and Doris Stevens. What can you tell me about that? You were invited and then uninvited, or something.

Matthews: I had a feeling after we got there that we were not too welcome. I felt it was because the League of Women Voters had the ear of a Mrs. Corbett Ashby who was the president of the group. Many of us went as fraternal delegates. I was appointed by the governor of Mississippi as a fraternal delegate from Mississippi. And I presented a certificate of formal appointment.

One thing that was interesting in connection with this International Woman Suffrage Alliance was that they had ladies from all parts of the world who were interested in different things. They made reports on different subjects in which we were interested. But they did have sort of a private hearing on the matter of this organization that was opposing our admission.

Fry: Yes, wasn't that Carrie Chapman Catt's organization [League of Women Voters]?

Matthews: Yes. You know the League of Women Voters were not just for advancement of women. They have taken a position on just about everything under the sun.

Fry: They felt very strongly, didn't they, about protective legislation?

Woman Suffrage Parade, England

Matthews: Yes, they thought that what we were doing to try to have protective legislation based upon the nature of the work was doing women a disservice. That's what they thought. We didn't believe this to be so.



Matthews: One of the pleasant things about that meeting was that, as a result of our being over there, Lady Rhondda [Margaret] of England invited us to come over to England and be in their suffrage parade. Did you hear about that?

Fry: No.

Matthews: She did. She invited us to come over. It was a tremendous parade. They were trying to get suffrage for women at twenty-one. Men could vote at twenty-one, and women had to be thirty. They had an enormous parade. Many of us went over. Anita Pollitzer went. She was there. We marched in the parade. I remember that I carried a banner and the banner said, "Women in the United States vote at twenty-one, why not here?" There was a tremendous wind that day. (This was in 1926.) And the wind almost blew the banner out of our hands, but we managed to hold it. The lady whom I marched with was Mrs. Dexter Otey from Virginia. All along the march we heard people reading: "Women in the United States vote at twenty-one--why not here?" They would say, "Hear, hear!" We got a very good reception. People spoke. The women who were in Parliament spoke, but there weren't many. We went into the Hyde Park section. They had speeches and everything. I don't know how much it helped them get the vote, but that was the general idea.

Fry: Was Mrs. Pankhurst [Emmeline] there?

Matthews: Yes, she was. I don't know what year she died, but she was there and she talked from one of those platforms that were erected in Hyde Park.

I'll tell you who else was there. Who was the man who used to talk on television? Raymond Gram Swing. Betty Gram Swing was there. She was located in London at that time.

Fry: My notes here say that when they refused to let the National Woman's Party be in on the congress in Paris, Lady Rhondda withdrew her application for membership and her Six Point Group in protest of that.

Matthews: I don't remember that.

Fry: I wonder if you remember Mabel Vernon's speech, her very eloquent speech pleading with them to let you in.

Matthews: No, I don't remember her speech. I remember that Mrs. Amelia Himes Walker, of Maryland, who was a very handsome woman, made a very good speech and looked lovely.





Fry: Was her speech on behalf of you people?

Matthews: Oh yes, she was one of us.

Fry: I also have another note here that the "ins," the Alliance Labor Committee, got a resolution through on the floor that any differential legislation based on sex may develop into a very real tyranny. That was in a labor committee that sounds as if it were working on the inside or something.

Matthews: I'm sorry. It's been so long that I just don't remember.

There was one lady who went on this trip from the Eastern Shore of Maryland. Her name was Mrs. Elizabeth Dixon. She was a woman of considerable means. The most pleasant thing about this trip was that, when we got over there, she said that she had had her honeymoon in Switzerland, Lausanne I think. She was going to drive all the way from Paris to Switzerland. She invited Anita Pollitzer and me and a couple of other women to go with her, and we went. We went all the way through the country. We stopped in the place where Joan of Arc crowned the French king. It was a really nice trip.

#### Non-acceptance at International Suffrage Meeting Considered Further

Fry: The other thing is just a general question about it. How could so many women start out from here without knowing for sure whether they could be part of it? Or was it a political attempt to dramatize the situation?

Matthews: Mrs. Corbett Ashby was an extremely nice person. Before the meeting, she was in the United States. She was entertained by the Woman's Party. She seemed extremely friendly. We felt that there would be no trouble about it at all. Of course, Mrs. Belmont and Miss Paul were always interested in having an international meeting of some kind. They thought it would help women. A group of members of the National Woman's Party decided that they would go.

Fry: And then when the League of Women Voters protested....

Matthews: They were there. They had come. There was no showdown until we got there. So we were all mad.



Fry: I think Mrs. Belmont was living in Paris at the time. Were you invited out to her chalet or whatever it was?

Matthews: I don't think Mrs. Belmont lived very close in to Paris. I think she lived a ways out. I don't remember Mrs. Belmont at all in connection with that. She might have been there.

Fry: Were you at the conference a few years later, the Inter-American Commission of Women meeting in Havana, Cuba in 1928?

Matthews: No, I was not. I went down to see the women off, but I didn't go. Miss Berrien went.

Fry: Did you go to any other international meeting?

Matthews: I don't think of anything.



## TAPE NUMBER III

## ERA: OPPOSITION

Fry: Did you attend the Women's Industrial Conference which was in Washington I think, in the same year as the meeting in Paris, 1926? There was a big controversy there because they omitted the Equal Rights Amendment from the agenda. So the National Woman's Party then scheduled a separate conference two days before the Women's Industrial Conference.

Matthews: I don't remember that.

Fry: It was the Women's Bureau that was sponsoring the Women's Industrial Conference.

Matthews: The Women's Bureau was always antagonistic to the Equal Rights Amendment, to everything from the beginning. Of course, the whole purpose of the Women's Bureau was to deal solely with women. So they could hardly take up anything that contemplated equality.

Fry: I guess Alice Paul tried very hard to get something in, and there was quite a bruhaha according to my notes. There were a number of other people and groups in opposition to what the Woman's Party was trying to do then. I thought you might know something about it.

There was the Florence Kelley group of the National Consumers' League. Are you at all familiar with that?

Matthews: I knew about it. I knew who Florence Kelley was. I know she was a promoter of special legislation for women.

Organized labor didn't seem to want to have labor legislation for men. They wanted men to have theirs by contracts



Matthews: and by bargaining, but a minimum wage was fine for the woman.

So what they did in New York was to take the men out of the resolution by the legislature and send it back up limiting it to women. So the thing passed.

Then some woman contested the law in the Supreme Court. Rebekah Greathouse and I were engaged by some of the people to write a brief on behalf of the woman who brought the case.\* And by George we got the decision! David Lawrence wrote something up about it; and he said in his article that the Supreme Court had followed the language and the reasoning of the brief on behalf of various women's organizations, including the National Woman's Party and the National Association of Women Lawyers.\*\*

A lot of newspaper people left that day, just the minute the decision was announced. Without checking to see what the reason was or anything, they rushed down and put it on the wires. So the way it was written up in the newspapers was that the Court had done something terrible to the women.

The Supreme Court had been holding some of President Roosevelt's New Deal legislation invalid. He didn't like that at all, so he was getting ready to pack the Court, so to speak. The decision that we got was only a five to four decision. So the question came up again within about a year's time, or a little bit more, not the same case, but another case. You know, the Supreme Court turned right around and changed the decision and upheld the state minimum wage law for women only.

Fry: I wanted to ask you about any other opposition or competing things that were going on. There seemed to be quite a bit of activity on the part of other women's organizations for

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\*Brief as Amici Curiae: Morehead v. Tipaldo, 838 (1935). On file at The Bancroft Library.

Morehead v. Tipaldo (Syllabus), 838 (Argued April 28, 1936--Decided June 1, 1936.) On file at The Bancroft Library.

\*\*"Pay Equality for Women Advanced" The Evening Star, Washington, D.C., Thursday, June 4, 1936. On file at The Bancroft Library.





- Fry: maternal and child care, and a child labor amendment which had been passed by the Senate [June 2, 1922] as the Sheppard-Towner Act, which never got ratified. [By 1930, only six states had ratified this child labor amendment.] I wondered if any relationship existed between these efforts, which were primarily women's efforts, and the objectives of the Equal Rights Amendment.
- Matthews: Sheppard-Towner sounds very familiar, but I can't recall now what it was.
- Fry: One was to provide more help for adequate maternal care in childbirth because the United States at that time had a very poor statistical record.
- Matthews: I don't remember too much about that. It rings a bell but at the same time it doesn't tell me anything in particular.
- Fry: Did you know Josephine Casey in the National Woman's Party?
- Matthews: Yes.
- Fry: What was her role in it, do you know?
- Matthews: I think she was an organizer for labor at one time, stood very high with them. But they didn't like this business of her being for the Equal Rights Amendment. They didn't like that at all. They were ready to go against her on that.
- Fry: I thought that someone who had been a labor organizer could serve as a bridge between the groups that were very sensitive about women's protective legislation and...
- Matthews: You know, it's a very strange thing. Take this Esther Peterson--you know who she is, don't you? She had about the ranking job in the days of John Kennedy, when he was president. Right now she is acting as a sort of consumer advocate for a large grocery chain. At any rate, she always worked for labor. Then she was put on that White House Status of Women Committee. A lot of women were put on that committee. Among them Marguerite Rewalt. Imagine my surprise when a report came out--of course Esther Peterson was more or less responsible for it--and the contents of the report were not favorable to the amendment at all. It was indicated in the report that this just wasn't the time for the amendment, or words to that effect. I was surprised that Marguerite Rewalt didn't come forward and say, "This is the time for it." Apparently she thought that



Matthews: the cards were stacked and she couldn't do anything. So that was that.

Certainly Esther Peterson used her place against the amendment at all times. And yet... [Laughter] Not long ago, about a year ago [1972] there was a celebration down there to celebrate the passage of the Equal Rights Amendment by Congress. They invited both men and women...but a lot of the people that participated in that celebration were really late-comers to the fight for the Equal Rights Amendment.

Fry: Was this the Rewalt group?

Matthews: She organized the celebration, and she acted as the master of ceremonies, so to speak. The reason I'm telling you this tale is that there was Esther Peterson!

Fry: Really?

Matthews: Yes, she was there. She had spent all those years opposing it and now she...

Fry: I understand Alice Paul wasn't invited.

Matthews: I don't know whether she was or not, but I was going to tell you that I wasn't going to go, because the people who were organizing it were mostly late-comers to the Equal Rights Amendment. I was perfectly willing for these men who had helped to have all the honor that they were entitled to.

Fry: What men were they, you mean in Congress?

Matthews: Yes. Senator Cook [Marlow W.] of Kentucky. And Birch Bayh. He and his wife were there. They had somebody who walked out as though she was the representative of the Woman's Party. But if they didn't invite Miss Paul-- You know, Miss Paul is the kind of a person who likes to be in the midst of everything that is going to push this amendment; but when it comes to ceremonial functions, Miss Paul is usually the person who sends someone else to do the ceremonial part of it. She's like that. Of course there's something to that. There's only one Miss Paul, you know.

Fry: I was also told that Don Edwards, the congressman who handled it in the subcommittee in the House and worked so hard for it, didn't get invited.



- Matthews: Marguerite Rewalt called me on the telephone and asked me to come, urged me to come. I don't know. I finally decided it would be easier to go than not to go. But I'm happy for all of them to join whether early or late.
- Fry: Yes, if they'll work for its ratification, let them have their due.
- Matthews: I think Marguerite is working hard for that.
- Fry: In the case of Josephine Casey, are you saying that she is parallel to Esther Peterson?
- Matthews: Oh no, I didn't say that at all. I don't know of anything that Peterson has done for the Equal Rights Amendment other than go to that dinner, but she is a late supporter. All I know is that she has worked against it. What I'm saying about Casey is that Casey at least had the courage of her convictions. Notwithstanding the fact that labor was opposed, she would say, "This is right, this Equal Rights Amendment is right. Women should have equal opportunities with men." She always stood her ground.

#### NATIONAL WOMAN'S PARTY: POSSIBLE ALTERNATIVE TO MAJOR PARTIES

- Fry: There's something else that I wondered about. In the early days of the equal rights push and even before that, when the National Woman's Party was trying to decide exactly how it should define its new goal after suffrage was won, I think somewhere Mrs. Belmont stood up and made a speech that the Woman's Party was going to be a good alternative for women to the other two major parties. I wondered if that was ever really considered. Did the Woman's Party ever have any special partisan relationship or consider a partisan role now that suffrage was won?
- Matthews: I don't know whether Mrs. Belmont advocated a partisan role or not. She did come sometimes to meetings and she would speak briefly. Mrs. Belmont was a woman who had a lot of ideas. She had an idea once for a Parliament of Women, as she called it. She had some sketches made for a building that might be on the other side of that Old Capitol. It was very attractive. She did work with Miss Paul seeing some of those ladies abroad, in France, who had something to do with the movement there. Of course, you know the Woman's Party, Miss Paul was all for the



Matthews: idea of sending women to Cuba to that Inter-American Conference, [1928] to get an Inter-American Commission of Women started.

Fry: In William O'Neill's book, Everyone was Brave: A History of Feminism in America [Chicago, Quodrangle Books, 1971], he writes that the women really didn't take an active part in political parties at that time. There was no real policy for them to do this in the Woman's Party. Do you think that was the case?

Matthews: I know at one time the Woman's Party thought it would be a good idea to try to elect some women to public office. They did a little bit towards that, but it was sort of a hopeless thing. It was after 1920.\* They had some women in Pennsylvania who ran for public office but Pennsylvania was, well, it would have been very difficult to find a Democrat in Pennsylvania at that time. Everybody was Republican. Now, everybody's a Democrat.

Fry: Why would they have to be a Democrat?

Matthews: What I am saying is that in the times of which we are speaking, when the Woman's Party was trying to get these women to run, at that time in Pennsylvania nearly everybody was a Republican. There were very few Democrats. Of course, when you have nearly everybody a Republican, there is usually a strong Republican group in control. They are going to pick whomever they want to run, and they are usually not going to have any consideration about running a woman unless they think the woman has some advantage in the running. Thus it was out of the question for a woman to get the nomination in a place like Pennsylvania at that time. At any rate, these women who ran were nice enough women; but they were women who either were Democrats, or they were women who had some political affiliation that wasn't the least bit helpful. So none of these women got elected, none of them.

I just don't know why it is but so many women are not interested in working for their advancement; and it may well be

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\*Mabel Vernon, in a Regional Oral History Office interview with Amelia Fry tells of the 1924 campaign of Mrs. Elizabeth Culbertson of Meadville, Pennsylvania, for Congress. Ed.





Matthews: that, since they do have the call of the home and the call of the children and all of that, they just have less time to do it than men have. I don't know what it is.

Fry: When you say, "Women aren't interested in working for their advancement," you mean--

Matthews: I don't really mean that. What I'm trying to say is that there are so many things that come to women to do every day, like taking care of their family, sending their children off to school, and all that. These daily activities are just more pressing than political advancement. I think that a great number of men are not very sympathetic. Some are, though. I don't know what the answer is. I wish you would tell me!

#### RISE AND FALL OF FEMINISM

Fry: No, I'm just as puzzled as you are. I did notice that a number of writers keep saying that there was a big slackening in the interest in feminism per se in the twenties and then of course during the Depression in the thirties. I wonder if you felt this after your first interesting activities of picketing the White House, then winning suffrage; and then what happened?

Matthews: Of course suffrage was just one thing, and it's much easier to concentrate women on working for one thing like suffrage. Suffrage seemed to be the answer to everything. If they had the vote, they could have this. If they had the vote, they could have that. I think it was easier to get women together on the suffrage movement than to get them together on the different bills.

Fry: I wonder why the Equal Rights Amendment never did become the great symbol for women's freedom which the suffrage issue did.

Matthews: I think maybe due to the fact that the suffrage issue was just one right. The Equal Rights Amendment covers a multitude of rights. I don't know what the explanation of that is.

You know, one thing that I can't understand is how so many women flock to business and professional women's clubs yet have never worked or become associated with an organization that just stands for the Equal Rights Amendment. Today, however,



Matthews: the business and professional women's clubs say that passage of the ERA is one of their principal goals. But even after we got the National Federation of Business and Professional Women's Clubs to come forward at their convention, in 1937, for the Equal Rights Amendment, they elected as president a woman who did nothing to promote the amendment. No woman could be elected at that time [1937] who would say that she was against the amendment; and since then, they can't be elected if they say they are against the amendment. As a result, some women have gotten elected to the presidency who didn't have a strong feeling either against it or for it. They have been willing to stand on the position of the organization, which was for the amendment, but as leaders of the organization, they did very little to promote the amendment.

One such woman [Earlene White] was elected right about that time [1937] in Atlantic City, and she was from my state [Mississippi]. I don't think she did much, if anything, to promote the amendment during her term.

The programs of the business and professional women's clubs have been varied. Another thing too is that they had many different local groups. They had the state groups. They are interested in the offices and getting work done and in areas in which they're participating and supporting. It has a large spread, and so not too much time is spent on the amendment.

Fry: Because of this great diffusion of activities.

#### NATIONAL WOMAN'S PARTY: MEMBERSHIP REVOLT, 1946

Fry: There is a reference to an open membership revolt in the mid-1940s in the Woman's Party.

Matthews: I don't remember.

Fry: I keep picking up little things about this. In 1946. Here is a telegram from Mabel Vernon in which you were mentioned as being on a committee to help adjudicate some dispute.

Matthews: [reading] "Several Washington members of the Woman's Party, who have had no part in recent meetings and activities designed



Matthews: to prevent public dissension which might injure the amendment, now propose a Solutions Committee to recommend action looking to the resolving of present difficulties, the committee to be composed of three members acceptable to those who requested the October 27 meeting and to the national chairman and first vice-chairman."

At one time there was some sort of difficulty between Doris Stevens and Miss Paul, I think. I do remember something about this. I remember having a meeting with Mrs. Emma Guffy Miller. It seems to me it was something about the organization, that the claim was that something hadn't been regularly done. That group was headed by Doris Stevens. I suppose they did have some kind of litigation at one time, I think, concerning an election.

I might say that I never felt that there ought to have been this litigation. I wasn't at all in sympathy with their effort.

Fry: Was this relating to an election of officers?

Matthews: I can't remember now exactly how it came about, but at any rate there was some question about whether the election had been handled right. Miss Stevens, and Miss Berrien were in on it. I felt very bad about it. I didn't get into the litigation at all. The reason I stayed out was that I didn't feel that I could get in on it. Mrs. Harvey Wiley was somebody who was pulled in by Miss Berrien and Miss Stevens, and I didn't think she ought to be in on it at all. She had told me she would not get involved. But they would take papers to her and say, "Does this suit you?" If she said, "No, it doesn't suit me," they would say, "Well, we'll fix it so it will." At any rate, there was a law suit filed by the group that was headed by Doris, and they lost their case.

Fry: Maybe Alice Paul will tell me about this as one chapter in the history of the party.

Matthews: Maybe she could tell you. I stayed out of it, because I had represented the Woman's Party. Some of the people against the Woman's Party, I knew well; for instance, Mrs. Wiley was a client of mine. And I couldn't see myself getting in the middle of that, but my sympathies were with Miss Paul's side of it. I tried to pull Mrs. Wiley off and also Miss Berrien, but I wasn't successful. Doris Stevens and Miss Berrien are



Matthews: dead now, and I don't know who could tell you their side of it. I never attended any of their meetings, and didn't meet with them or anything like that.

Fry: I have a funny little note from Mabel Vernon written to Ann Martin in 1947. There's no date on it other than that. "I try to stay clear of the Woman's Party. One case came up last week; one of the lawyers for the 'constitutionalists' was ill, and the case was postponed." And she says, "constitutionalist" is the title given to her, Mabel Vernon, by Mrs. Wiley.

Matthews: You see, they were saying that the Woman's Party didn't operate according to the rules.

Fry: Who were saying that?

Matthews: It wasn't Mrs. Wiley really, it was Miss Stevens primarily. She was the ringleader of that whole thing.

Fry: I guess what I'm more interested in is whether there were any big changes in the Woman's Party.

Matthews: It hurt the Woman's Party. Miss Berrien had often said to me, "Miss Paul is the Woman's Party." Well, I would never have said anything like that, but she just adored Miss Paul. She would write her letters in the most loving terms. I don't know why Miss Stevens was able to pull Miss Berrien away from Miss Paul.\*

#### Alice Paul Compared with Subsequent Leadership

Fry: All organizations have things like that happen. It's sort of amazing that there wasn't more of this, since Alice Paul ran the organization with such an iron hand. I wonder if her own dedication managed to hold people together.

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\*For additional details see "Conversations with Alice Paul: an Autobiography," Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1975.





Matthews: I think that it did. The Woman's Party has always been a small group. Mrs. Ethel Earnest Murrell from Florida was chairman at one time, and when she got in we thought she would be just fine. But far from working on Woman's Party concerns, she went down in Florida, and she got everybody into the party by promising to promote everything under the sun.

Fry: Other issues?

Matthews: Yes. That didn't help the Equal Rights Amendment at all.

Fry: I bet Alice Paul straightened her out pretty fast.

Matthews: Or tried to. Miss Paul was never able really to go and "do her thing" in the sense of going and just doing what she wanted to do. She has tried many times as you know, but somehow ERA always drags her back. Of course this is Miss Paul's one love. This is the one thing she wants to do.

Fry: It has been a very monolithic existence for her. She's quite a woman. I hope we can get an adequate portrait of her out of all of this.

Matthews: Doris was on very good terms with Miss Paul and just thought she was a wonderful person. She wrote the book, Jailed for Freedom [1920].

Fry: She was very active all through the twenties I believe. She remained in the party.

Matthews: Yes, she did.

Fry: I think we have used all your time. It was most fortunate for us that you were able to record today.

Transcriber: Frances Berges  
Final Typist: Keiko Sugimoto



**APPENDIX**



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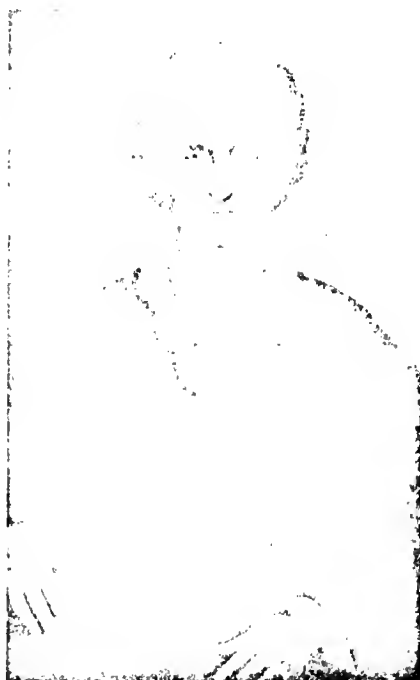
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From: Women Lawyers Journal, Summer 1973

## JUDGE BURNITA SHELTON MATTHEWS

### Lawyer and Feminist



Judge Matthews

A portrait of Senior Judge Burnita Shelton Matthews of the United States District Court for the District of Columbia Circuit was presented to the Court on February 1, 1973, in the Ceremonial Courtroom. Chief Judge John J. Sirica presided. Ellen Lee Park, Assistant United States Attorney, presented the portrait on behalf of the Trustees of the Burnita Shelton Matthews Portrait Trust. Chief Judge Sirica accepted the portrait for the Court and expressed the appreciation of the bench and bar for the long and distinguished career of Judge Matthews. Judges of the United States Court of Appeals, the United States District Court, the D.C. Superior Court and D.C. Court of Appeals, and an eminent gathering of attorneys, friends and relatives attended the ceremony.

The portrait is the work of Roma Christine Harlan, the renowned portrait painter, and represents a gift from many individuals and organizations, including members of the Women's Bar Association of the District of Columbia and court house personnel, all of whom wished to participate in this project in recognition of the contribution of Judge Matthews to the Court and the community, and because of their affection for this great lady whose indomitable spirit has made her the foremost feminist of her time.

Judge Matthews, nominated as a Judge of the United States District Court for the District of Columbia on October 21, 1949, by President Harry S. Truman, was the first woman in the nation to be appointed to a Federal District Court, and second to enter the Federal Judiciary, Florence E. Allen having been appointed in 1934 by President Franklin D. Roosevelt to the United States Court of Appeals for the Sixth Circuit. In 1968 Judge Matthews became a Senior United States District Judge, and since that time has served, upon assignment, on the United States District Court, the United States Court of Customs and Patent Appeals, and the United States Court of Appeals.

Prior to her appointment to the bench, Judge Matthews was in the private practice of law in the District of Columbia for twenty years, and for six years was an instructor in the law of Evidence at The Washington College of Law, now The American University, and was well known as a feminist active in advancing the status of women.

Judge Matthews is noted among women lawyers of the District of





Columbia for the efforts she has made to encourage other women in the field. She persisted until her fellow Judges appointed a woman attorney as member of the Committee on Admissions and Grievances; and she has always had a woman law clerk, whom she has ever been ready to assist to move on to positions of eminence in the profession. She has made herself available with advice and wise counsel, and a friendly word for all women lawyers. By her accomplishments and example, she has made the path easier for women now entering the profession of law.

Judge Matthews, "lawyer and feminist", was born in Copiah County, Mississippi, 28 December 1894 (Who's Who in the East, 1913). On April 28, 1917, she was married to Lt. Col. Percy Ashley Matthews, then a young air cadet, deceased 1969. She obtained an LL.B. (1919) and an LL.M. and Master of Patent Law (1920) from National University Law School, Washington, D.C., laboring by day and attending school at night. While a law student, she was a White House Picket for woman suffrage. Her private law practice was varied. She represented the National Woman's Party, Mrs. O.H.P. Belmont, Maud Younger and other property owners, in litigation brought by the United States to acquire the present site of the United States Supreme Court, and involving the authenticity and historical value of the property of the Woman's Party as the Old Brick Capitol of the era of President Monroe; she was counsel for the Estate of Harvey W. Wiley, father of the Pure Food Law. In the case of Miss Ruby A. Black, newspaper correspondent, she secured a ruling from the United States State Department creating the precedent that a woman who

has not changed her name upon marriage need not assume her husband's name to obtain a passport. She drafted numerous laws sponsored by the National Woman's Party advancing the legal status of women, such as, a law removing the disqualification of women as jurors in the District of Columbia, statutes of Arkansas and New York eliminating preference for males over females in inheritance; Maryland and New Jersey Acts giving women teachers equal pay with men teachers for equal work; a South Carolina law allowing married women to sue and be sued without joinder of husbands; and the 1931 and 1934 amendments to the Federal statute extending citizenship rights of women.

Judge Matthews has been the recipient of many honors. She was appointed by Governor Whitfield to represent Mississippi at the International Woman Suffrage Alliance meeting, in Paris, France, 1926; was named by President Loflin to represent the American Bar Association at the Conference of Bar Association Delegates in Los Angeles, 1935. She was President of the National Association of Women Lawyers, 1934-1935; and President of the Women's Bar Association of the District of Columbia, 1925-1926.

The Honorary degree of Doctor of Laws was conferred upon her by William O. Douglas as Chancellor of the National University (now merged with the George Washington University), February 1950; a like degree was conferred by The American University, June 1966; The George Washington University Alumni Achievement Award, June 1968; and the Bar Association of the District of Columbia Distinguished Service Award, October 1968. Upon her decision to retire from regular service and become



a Senior Judge, President Lyndon B. Johnson wrote to her on February 6, 1968, expressing his appreciation for her "important and distinguished service as a member of the Federal Judiciary for the past 18 years". But most important to women lawyers, is the accolade in the awarding of the degree of Doctor of Laws by The American University, recognizing her as: "Able lawyer, successful teacher of the law, persistent champion of the rights of women in this country and abroad, first woman to be appointed a United States District Judge"; and, as expressed in The George Washington University Alumni Achievement Award, "Champion of the cause of equal rights for women in this country and throughout the hemisphere; in recognition of a distinguished career as jurist; and for achievements which reflect distinction upon the University".

Women feminists of today are indebted to Judge Matthews who blazed the trail in the past long years of the struggle for equal rights for women.

On February 8, 1968, in an editorial "Judge Matthews Steps Down" the Washington Post newspaper, paid her the following tribute:

"When Burnita Shelton Matthews set out to become a lawyer half a century ago the practice of law was not a career that particularly commended itself to young women. In those days, the rights of women were sharply restricted, by law as well as by custom, and they were, indeed, second class citizens. Because of women like Judge Matthews, most of those legal discriminations have now disappeared. She was one of those who picketed the White House for the right to vote and she was

one of those who worked day and night to persuade the Nation's males to give women the same legal rights that men had long enjoyed."

"Beyond that, however, Judge Matthews carved out a path on which other women are sure to follow. She was the first woman ever to be named a Federal District Judge when she was appointed by President Truman in 1949. Thus, the announcement that she will retire on March 1 has some special poignancy. She was a hard-working, conscientious judge who took cases as they came, never ducking one because it would be difficult to decide or because the trial would be long and tedious. Some of the judges with whom she worked from time to time tried to convince her that she was carrying more than her share of the load. She was, and she kept on doing it because she never wanted it said that a woman could not keep up with the men. Presiding daily over major criminal and civil trials, she established that a woman can do the job as well as a man — and that was what she had set out to do many years ago in Mississippi when she gave up a career in music for one in law."

The National Association of Women Lawyers salutes Judge Burnita Shelton Matthews — Lawyer and Feminist.

— Lee Berger Anderson,  
Editor-in-Chief,  
Women Lawyers Journal



# The Equal Rights Amendment

By  
BURNITA SHELTON MATTHEWS  
of the law firm of  
Matthews, Berrien, and Greathouse  
and  
Member of the National Council of the  
National Woman's Party

Speech made at the Council Meeting of the  
General Federation of Women's Clubs  
Hot Springs, Arkansas  
May, 1934



# The Equal Rights Amendment

By Burnita Shelton Matthews

**J**UST before the Declaration of Independence of the United States was made, there lived a woman who, foreseeing our independence from England and the necessity for new laws for this then infant country, urged that such laws recognize the freedom of women. That woman was Abigail Adams, wife of one President of the United States, and mother of another. Writing to her husband, Abigail Adams said:

"I desire you would remember the ladies. . . . If particular care and attention is not paid to the ladies, we are determined to foment a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation. . . ."

The independence of the American colonies became a reality. Likewise, the adoption of the Constitution of the United States was accomplished about one hundred and fifty years ago. But the ladies were not remembered in the Constitution. It is because they were not remembered *then* that *now* an amendment is proposed to the Constitution of the United States declaring:

**"Men and women shall have Equal Rights throughout the United States and every place subject to its jurisdiction."**

Under the English common law which our forefathers brought from the mother country, women had almost no rights which men were bound to respect. The Constitution is always considered in the light of the common law, and when women have claimed rights under the Constitution, they have almost invariably been denied, as the common law gave women few rights but many duties. Forever behind a man in every State of the United

States are the rights of man as a man, with a final appeal for these rights to the Supreme Court of the United States, while forever behind a woman is the mediæval English common law which places upon her the stigma of inferiority and bondage. I agree with M. Carey Thomas, outstanding woman educator, that this is the compelling argument for writing an Equal Rights Amendment into the Constitution of the United States.

Perhaps few of us realize that for almost a century women have been carrying on a campaign to secure for women Equal Rights with men. Among the demands of the first Equal Rights Convention held in the United States—The Seneca Falls Convention of 1848—were: Equal Rights in the franchise, in political office, in education, in the professions, in marriage, in the control of property, in the guardianship of children, in making contracts, in the church and in the home. In 1934 all of these rights remain to be won except the right to vote. The Equal Rights Amendment would simply complete the struggle for the full freedom of women. The discriminations still imposed upon women by the laws of this country bear witness to the need for the Equal Rights Amendment.

**I**N more than one-third of the States there are still laws which take little account of the claims and feelings of mothers. For instance, in the District of Columbia when a son or daughter dies without a will, the father often inherits to the exclusion of the mother. Of this state of affairs, a court in one State has said: "We cannot conceive why the mother, who has spent her youth in a labor of love and devotion to her child





should, after burying it from her sight in its narrow house, be turned from her home a beggar, according to law, with neither the consolation nor compensation of sharing in the property of her dead child."

**I**N Massachusetts, Michigan and New York, the services and earnings of a minor child belong to the father. In Louisiana a child is a forced heir and can only be disinherited for cause. One of the causes is marrying without the consent of the parents. When a minor daughter married with the active assistance of her mother but without the consent of her father, it was held she had married without the consent of her parents as, in case of difference of opinion between the father and mother, the authority of the father prevails. The celebrated Grotius said in his day that the father is entitled to superior rights over the children "on account of the excellence of his sex."

Although over the legitimate child the father is usually given paramount rights and the mother little recognition, over the unfortunate child born out of wedlock who is regarded by society as an outcast, the law makes the mother the sole guardian, and contrary to the law of nature, decrees that the child has no father. Thus the male parent escapes practically all of the burdens and responsibilities incident to illegitimate parenthood. For instance, in Virginia the father cannot be required to contribute to the maintenance of his illegitimate child. In some States a small yearly contribution, sometimes as little as \$50 per year, may be collected for a specified period of years. The period the father is supposed to help varies but in some States it is 10 years, 12 years, or 14 years, and expires before the child has reached the employment age under the child labor laws.

**B**EFORE a woman marries she is in the eyes of the law able to look out for herself. If she wants to operate a beauty shop or a real estate office, no one will hold an inquiry as to her capacity to run it. But when she marries, the law in some of the States places her under a disability and requires her to go through a complicated court procedure to satisfy the judge as to her capacity and competency to engage in business. The most ignorant man, married or single, may carry on a business and no inquiry is conducted as to his qualifications. After Mrs. Ferguson was elected Governor of Texas, she petitioned the court to remove her disability as a married woman in order that her contract on behalf of the State might not be called into question. The court solemnly entered a decree, reciting that, her husband's consent having been obtained, her disabilities were removed. In the State of Washington, a married woman cannot sue for damages for injuries to her person unless her husband joins her in the suit.

The double standard of morals is recognized in some States. In Maryland a man may divorce his wife for misconduct before marriage but a divorce is not available to a woman on that ground. In Minnesota a husband whose wife is led astray may collect damages from the guilty third party. On the other hand, no wife whose husband is led astray may claim compensation from the guilty third party. Historically the reason given for this difference is that the husband is the superior, the wife the inferior, and that the inferior (the wife) can have no such rights in the superior (the husband) as the superior has in the inferior.

It frequently asserted that the South is the place where man is most chivalrous to women; that there women are on a pedestal. That pedestal in Georgia is not high enough to prevent the husband



from climbing it to collect his wife's earnings.

In Nevada and New Mexico, when a man dies, he may will away one-half of the community property, this being the property which is acquired by the husband or wife or both, as the result of their efforts after marriage. Their earnings go into this fund. While the husband is permitted to will away one-half of this property, the wife, if the husband lives, usually cannot leave a dollar of her half to anyone, not even to her own children.

In forty States, the services of the wife in the home belong to the husband. As a result of the rule that the services of the wife belong to the husband, he usually has the right to sue for damages for injury to her. Suits of this kind are maintainable in Illinois, Colorado, Delaware, Nebraska, Michigan, Mississippi, Missouri, New York and Tennessee. People who are inclined to consider a wife's services as of no material value would perhaps be surprised at the great value which the jury finds such services to be worth when the husband is suing for damages for their loss.

**W**OMEN are discriminated against with regard to public office. For example, the Oklahoma Constitution bars women from high public posts, such as Governor, Lieutenant-Governor, Secretary of State, State Auditor, Attorney-General, and State Treasurer. Despite the number of women in the teaching profession in Oklahoma, no woman may hold the office of Superintendent of Public Instruction. In Wisconsin no woman may serve as clerk to a Legislative Committee or in any other capacity as an employee of the State Legislature.

Women are disqualified as jurors in twenty-seven States. The United States Supreme Court has held that a State cannot bar colored men from jury service be-

cause the disbarment would brand them as an inferior class of citizens and deprive them of the equal protection of the law which is guaranteed by the National Constitution not merely to negroes, but to persons, and women are persons. Nevertheless, the court in this case said that certain restrictions might legally be put upon jury service, such as limiting it to males.

**The Equal Rights Amendment would put women into the Constitution, so to speak, would strike down the shackles the common law places upon them, and would mean that every woman shall hold her life, liberty and property under the protection of the general rules governing other human beings.**

Sometimes the Equal Rights Amendment is referred to as the "blanket" amendment, meaning that it is general instead of specific. All of the provisions of our Constitution are general in their nature in that they do not contain definitions, details or specifications. The Equal Rights Amendment being general, it corresponds in that respect to the Constitution as it now exists.

It has been repeatedly stated by opponents of the Equal Rights Amendment that no definition of Equal Rights is contained in the amendment. A constitutional definition of "Equal Rights" would defeat the purposes of the amendment. As Justice Story of the United States Supreme Court has so aptly said: "The Constitution unavoidably deals in general language. It did not suit the purposes of the people, in framing this great charter of our liberties, to provide for minute specifications. . . The instrument was not intended to provide merely for the exigencies of a few years, but was to endure through a long lapse of ages, the events which were locked up in the inscrutable purposes of Providence. Restrictions and specifications which at the



present might seem desirable might in the end prove the over-throw of the system itself. . ."

Do we find any definitions in the Constitution now? For example: Do we find any definition of the words "equal protection" used in the 14th Amendment? Do we find any definition of the words "unreasonable searches and seizures"? Do we find any definition of the words "general welfare," of the phrase "due process of law" or of the word "liberty"? The answer is we do not. That is so, as our highest court has said, because of the inherent inability to put into words all the new conditions to which the Constitution applies from generation to generation.

THE opponents of the Equal Rights Amendment also throw out questions running something like this: Since the amendment provides that men and women have Equal Rights, does it mean that a man in Arkansas and a woman in South Carolina have the same rights? South Carolina grants no divorcees. Arkansas does grant divorcees. Hence women in South Carolina and men in Arkansas do not have Equal Rights as to divorce. Which standard would be adopted under the Equal Rights Amendment—the Arkansas standard or the South Carolina standard? The answer is that each State would preserve its own standard but the standard in any one State would apply equally to men and women in that particular State. In this connection, it is pointed out that Congress passed a bankruptcy law under a constitutional provision giving that body power to establish a uniform bankruptcy law throughout the country. The law passed by Congress allowed each debtor exemptions provided by the laws of the debtor's State. Some States, as, for example, Mississippi, allow a debtor to keep his homestead. Other

States, such as Maryland, do not allow a homestead. It was contended that there was no uniformity as required by the Constitution unless, for example, a Mississippi debtor and a Maryland debtor had exactly the same exemptions. Yet the bankruptcy law was held to be uniform in a constitutional sense. Likewise, the Equal Rights Amendment would mean that in each of the 48 States women and men would have Equal Rights in any given State, but not the same rights in all States.

THE opposition doubtless will tell you that this amendment will take "protection" from women. Women have always been told that they are protected. All the discriminations against women have been explained away as "protection." In the 18th century, Blackstone, the great English jurist, spoke of how, upon marriage, the husband and wife became one, the husband being that one, how all her personal estate, her labor and her earnings became his property, and how the children belonged entirely to him. Then Blackstone says these disabilities were for her protection, "so great a favorite is the female . . . of the law." This point of view has been handed down from generation to generation and it still persists. I am convinced that the day will surely come when a future generation will be as amused at the present-day conception of "protection" as you today are amused at Blackstone's conception of protection.

The labor laws imposing restrictions upon women's employment represent "protective legislation" which it is said the amendment would endanger. As our first example of this type of legislation, let us consider the minimum wage laws prevailing in a few States. Massachusetts has such a law. Harvard University recently discharged 20 scrubwomen and gave their jobs to men rather than comply



with a ruling of the Massachusetts Wage Board and raise the women's wages from 35 cents to 37 cents an hour. One of the women had been employed for 33 years, and one for 13 years. President Lowell in reply to an inquiry about one of the women wrote:

"I have inquired into the discharge of Mrs. Emma Trafton from the Widener Library, and I find that the minimum Wage Board has been complaining of our employing women for these purposes at less than 37 cents an hour, and hence the university has felt constrained to replace them with men."

In a District of Columbia case where a woman elevator operator was discharged because of the unwillingness of the hotel to pay the minimum wage, the court said: "The hotel manager was not compelled to employ her at a fixed wage, and her position went to a man, who was willing to perform the service at a lower wage than that fixed by the board. . . . The law to promote the good morals and general welfare of the community cast her adrift."

Reports from State officials plainly show that women are finding it difficult to obtain employment at the wages set because men and boys offer to work for less.

**The minimum wage laws should be applicable to both men and women workers and then neither would undercut the other. I believe that all labor laws should be based on the nature of the work and include all workers, and that labor regulations should not be based on sex.** Formerly it was insisted by opponents of the Equal Rights Amendment that it is unconstitutional to have a minimum wage law for men. But the NRA is fixing minimum wages now for all workers, men and women.

Moreover, the NRA has hundreds of codes fixing hours for all workers, men as well as women. What is more, the

maximum hours the NRA are fixing for both men and women workers are shorter than those prescribed by protective legislation for women alone. The advocates of equality say that any regulation of hours should be for both men and women. **The Equal Rights Amendment would not affect the NRA codes applying equally to men and women, and almost without exception the hours fixed by these codes are the same for both men and women.** Too, a large number of States already have labor legislation that applies to all workers in a particular occupation.

It is dangerous to continue the promotion of labor laws applying to women alone. For this trend in times of economic stress when jobs are scarce, encourages campaigns to pass "restrictive" legislation intended to make women ineffective as competitors. In California recently a bill was sponsored by the Labor Department and by Federations of Labor to put practically all paid women workers under the 8-hour day, including professional women. Fortunately, the women of California saw that the bill would give them the theoretical protection of an 8-hour day and take from them the actual protection of well-paid jobs, so they defeated the bill.

**A** NOTHER instance showing that these laws are not for the protection of women occurred in the New York Legislature, when waitresses asked to be exempted from the law barring women from night work. A representative of the State Federation of Labor said, "If you allow women to work at night, you will throw 5,000 men out of work." A member of the committee said, "Well, what became of the 5,000 women who were thrown out of work when this law was enacted?" Now, that was not for the protection of women but for the protection of the men who wanted their jobs.





A few years ago there was a bill in Congress which provided for an 8-hour law for women and minors. The Massachusetts Congressman who introduced it was asked to change the word "women" to "persons" or "adults." He said, "No; I put that in at the request of the Massachusetts manufacturers. You see, Massachusetts has an 8-hour law for women and children and we cannot compete with the rest of the country unless all the States have the same restrictions." Now, that was not for the protection of women but for the protection of the Massachusetts manufacturers.

As long as woman performed the unpaid labor of the world, nobody worried about her physical characteristics, her long hours, nor her payless condition. It was only when women entered the paid field of employment that her competitors became concerned and started all sorts of queer notions.

In an argument in court on the validity of an early restrictive labor law for women, expert medical testimony was cited to show that women were not adapted to long standing on their feet because of the shortness and curve of their legs, the formation of their knee joints and other peculiarities. Of course, that was before the days of marathon dancing and athletics for girls. Nevertheless these worn-out ideas still exist. Within recent years the International Labor Office released a series of scientific studies. These studies purport to show that paid work is bad for women. The report solemnly sets forth that the rhythm of machinery is disturbing to the female organism; and that office work is a still greater cause of sickness among women.

**I** FIRMLY believe that women's opportunities are greatest and their interests best served when in the labor market they have a fair field unhampered by "re-

strictive" labor laws, applying to them alone. But this does not mean that I am against labor legislation. I am for labor legislation for both men and women when that legislation is based on the nature of the work and not the sex of the worker. If labor legislation is beneficial, why not give the benefits to all?

It is frequently stated by opponents of the Equal Rights Amendment that it is better to have specific bills for specific ills and that an Equal Rights Amendment would create confusion.

Everyone familiar with State legislatures knows that laws passed by one legislature are often modified or repealed by some following legislature. Eternal vigilance would have to be the price of permanence in State laws giving Equal Rights to women. The amount of time and effort that would have to be expended by women to remove all inequalities and all discriminations is appalling. It took women seventy-two years to obtain the vote, and suffrage was one definite right only. It will take more than a century of effort for women to change one by one innumerable wrongs into Equal Rights. It will be almost impossible because discriminations against women are written into some of the State constitutions where referendums are required for amendments, and besides the great cost and great labor involved in referendums, it is extraordinarily difficult to get a popular affirmative vote on anything.

Not only does the piece-work State by State method involve at least a century of effort and eternal vigilance to prevent the gains from being taken away at subsequent sessions of each of the forty-eight State legislatures, but even piece-work legislation is subject to litigation, and considerable litigation has developed from specific bills. Whenever a law is passed to remove a common law discrimination against women, the next inquiry is as



to how this law will be construed since statutes in derogation of the common law are strictly interpreted.

With regard to the objection that the amendment might create confusion in the State laws affecting the position of women, each legislature at the time it ratifies the amendment can bring its State laws into harmony with the amendment and thus avoid any confusion. This same fear of confusion was once expressed concerning the Federal Suffrage Amendment. What really happened after the adoption of the national suffrage amendment was that each State having any necessity for so doing, enacted legislation bringing its State laws into harmony with the national amendment.

It is sometimes said that the amendment would throw away legislation protecting the child-bearing function of women. To what legislation does this refer? The Maternity and Infancy Act provided only for the furnishing of information, and men as well as women might obtain it. Only six of the States have laws concerning work by women before or after childbirth. These laws absolutely prohibit a woman from working for a specified period before or after childbirth with-

out making any provision whatever for her sustenance in case she depends upon her work for her living. Children's Aid Allowances constitute legislation for the race and to save children and will not be affected by the amendment.

With regard to objection that the amendment would interfere with support or alimony laws, it is significant that most States already have penal non-support laws making it an offense for the mother as well as the father who fails to support the children. Moreover, some States already make the husband and wife generally liable for family support. In such case, the wife's services in the home must be taken into consideration. In States where all earnings and property acquired after marriage become community property and belong to both husband and wife, it is but natural that each must contribute to the family support in proportion to their abilities. Each State under the amendment may adjust its property and support laws as it seems best.

**I am convinced that the passage of the Equal Rights Amendment is inevitable and that it will in a large measure be the fulfillment of women's long struggle for human liberty.**

*Reprinted from EQUAL RIGHTS  
August 18, 1934*

NATIONAL WOMAN'S PARTY  
Washington, D. C.





# QUAL RIGHTS<sup>75</sup>

"MEN AND WOMEN SHALL HAVE EQUAL RIGHTS THROUGHOUT THE  
UNITED STATES AND EVERY PLACE SUBJECT TO ITS JURISDICTION"

*Amendment to the United States Constitution now before Congress.*

---

## Working Women Again Threatened

*(Analysis of Night Work Prohibition—by Rebekah S. Greathouse)*

## Equality Versus Protection

By BURNITA SHELTON MATTHEWS

## The Woman Movement In Estonia

By HELMI MAELO

## A Lawyer In Spite Of Herself

By ALMA LUTZ

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August 15, 1937

NATIONAL WOMAN'S PARTY

Washington, D. C.



# Equality Versus Protection

76

By Burnita Shelton Matthews

*Speech against the Women's Charter delivered before the Biennial Convention National Federation of Business and Professional Women's Clubs, Atlantic City, New Jersey, July 23, 1937.*

TO RAISE the status of women throughout the world is a hope we all cherish. The proponents of Women's Charter sincerely believe in its effectiveness to achieve women's advancement. Other groups, however, view the Charter as a handicap to women's progress, and a step backward. I will endeavor to show that the best interests of women will not be served by this Charter.

The fatal fault of the Women's Charter is that it is based upon the erroneous assumption that women do not have "full opportunity for employment" and need special protection as inferiors at the same time. What special protection really means is that women are forbidden by law to earn money in the same way and under the same conditions as other workers. If women are segregated and not allowed to enter and compete in paid employment on terms available to men workers, then clearly it is not possible for these women to enjoy the "full opportunity for employment" promised in the Charter.

Let us consider the Women's Charter in the light of the circumstances surrounding its birth. What are the circumstances? Some years ago a movement began all over the world to curtail or to extinguish the rights of women. Here, there and yonder action was taken to deprive women of economic freedom as a means of relieving the unemployment of men. This widespread movement against women found expression not only in local and national laws of various countries but in treaties between nations. Such was the sorry state of affairs when a few crusaders went out to battle on a world-wide front in defense of the rights of women. One result of the long and laborious struggle of these women is that delegations of 15 countries have requested that the agenda for the Assembly of the League of Nations for 1937 include consideration of—first, political rights for women; second, equality laws without distinction based on sex; third, equal rights for men and women in all other fields, and fourth, the inclusion of women as well as men in all League delegations. In this international movement it is now sought to project the Women's Charter. The proposals already before the League on the status of women include equal rights for men and women in all fields. The Women's Charter, on the other hand, denies economic equality.

If you believe that the right to engage in paid work is primarily the prerogative of the male, and if you believe that women should be allowed paid employment only at special hours, and at not less than a fixed wage, and under special supervision and subject to special governmental regulations, then support the Women's Charter.

If you believe that women should be free to live and work under the general rules governing the rest of society; that regulations for workers should be based on the nature of the work and not the sex of the worker, and that legal discriminations against women should end, then support the equality proposals now before the League of Nations and the Equal Rights Amendment now before Congress. This proposed amendment to the Federal Constitution provides:

"Men and women shall have equal rights

throughout the United States and every place subject to its jurisdiction."

The women proposing the Charter say that labor legislation under the Charter will be based on "experience", and that they intend to submit the charter to the International Labor Office. In a work published within recent years by the International Labor Office and described as "An Encyclopaedia of Hygiene, Pathology and Social Welfare, studied from the point of view of Labour, Industry and Trade," the following general statements are made:

"The injurious effects of labour on the female organism are established by quite a series of statistical data."

"The injurious effect of employment on women is proved."

"According to Bernays, the rhythm of machinery is not adapted to the female organism."

"Intellectual work is said to be a still heavier cause of sickness among women."

"The same holds good for those engaged in office work."

I have quoted these scientific findings because they are based on "experience," and because the women sponsoring the Women's Charter say that labor legislation for women under the charter will be based on "experience."

In an article written by a sponsor of the Charter she says that labor legislation under the charter is not in any instance to "violate the principle of equal opportunity for employment according to individual abilities." She then points out that for women printers in New York who are protected by trade unions against long hours the women's charter would have supported an exemption. Why does she think so? Some years ago in New York the women printers woke up one morning to find themselves "protected," indeed "specially protected" so that during certain hours they could not work. This protection, they said, protected them out of their seniority rights as well as the best paying shifts. When these women tried to get themselves exempted from this "protection," they met the opposition of the Women's Trade Union League and the Consumers League and others. Both these Leagues have an official sponsoring the Women's Charter. No one can say that in a similar case the charter group would not take the position of those two Leagues, and resist an exemption for the better paid workers on the ground that an exemption would "provide a dangerous precedent that would react unfavorably upon the large body of women to whom the act as a whole applied."

In upholding the Women's Charter and favoring labor laws for women which do not apply to their men competitors, the speaker preceding me said that the first minimum wage decision guaranteed to women the "liberty to starve." If by the "first" minimum wage decision she means the Adkins case decided in 1923 then let us remember that it was "special protection" and not the decision which gave women the "liberty to starve." A woman in that case complained





she lost her job to a man because the minimum wage law applied to her but not to him. And the Court appeals of the District of Columbia said something like this:

"The hotel manager was not compelled to employ her at a fixed wage, and her position went to a man, who was willing to perform the service at a lower wage than that fixed by the board. The law to promote the good morals and general welfare of the community cast her adrift."

Official reports from Oregon and North Dakota show the minimum wage legislation applying only to women, handicaps women in getting work, and enables men and boys to undercut them. The Attorney General of Ohio recently urged the upholding of minimum wage legislation for women as a means of lessening unemployment of men.

Finally, the aim of the Women's Charter is an entirely new social order. One of the most outstanding sponsors of the Women's Charter says there is need for combining three movements, namely, feminism, social reform and the trade union movement. In the final analysis, the primary purpose of the Women's Charter is to attain a more just world order for women and for society as a whole." This purpose is laudable, but I for one do not believe that equality for women should wait for a new social order. One of the reasons for women's degraded position in the parts of the world today, as in Germany, is that men themselves did not prize their liberties, and they set up the false doctrine that other movements are more important than the movement for the freedom of women. The significance of their liberties and their opportunities became clear to them only after they were enslaved. Efforts have always been made here and elsewhere to have women take up every reform under the shining sun except one for the advancement of their own status. Women should no longer permit themselves to be sidetracked.

O free daughters of free America, let us hold fast to the banner of equality and liberty for women, for that course lies the fulfillment of our highest ideals.

## Equal Rights S. O. S.

Throughout the United States there are women who are to do their bit in campaigning for the Equal Rights Amendment, but do not know how to make their assistance felt.

The Woman's Party Founder has started a One-Dollar Fund, a contingent fund for which there is great need immediately and to which everyone interested is urged to contribute. It will make possible much necessary work that otherwise could not be undertaken at this time and will pay great dividends to women of the nation who will benefit through passage of the Equal Rights Amendment with its guarantee of equality.

In order that everyone may be able to contribute to this fund, the following three methods have been suggested:

You may give—

- One dollar a year
- One dollar a month (\$12 a year)
- One dollar a week (\$52 a year)
- One dollar a day (\$365 a year)

Address "One Dollar Fund, National Woman's

## Government Workers Council 77 Celebrate Repeal of Section 213

More than two hundred members of the Government Workers Council, National Woman's Party, and their friends assembled in the garden of Alva Belmont House, National Headquarters of the Woman's Party, on the evening of August 5, to celebrate the repeal of Section 213 of the National Economy Act, under which so many married women lost their jobs.

One of the loveliest events ever given in the garden of the Government Workers Council of the Woman's Party, which led the national campaign for repeal of the measure, paid special honor to Senator Kenneth McKellar, of Tennessee, and Representative Emanuel Celler, of New York, sponsors of the repeal bill, and to Representative Caroline O'Day, of New York, who materially assisted throughout the years; Representative Robert Ramspeck, of Georgia, who was in charge of the bill for the majority; Representative Edith Nourse Rogers, of Massachusetts, in charge of debate for the minority; Representative Patrick J. Boland, of Pennsylvania, Democratic whip; Representative Sam Rayburn, of Texas, Democratic House Majority Leader; Representative Bertrand Snell, House Minority Leader; Representative John J. O'Connor, of New York, chairman of the House Rules Committee; Representative Virginia Jenckes, of Indiana; Representative Mary T. Norton, of New Jersey; Representative Nan Wood Honeymoon, of Oregon, and others.

Receiving were Mrs. Edwina Austin Avery, chairman of the Council; Mrs. Grace Cochran, vice-chairman; Vera Johnson, Congressional chairman, and the following board members: Helen Forbes, Page Kirk, Florence Heath, Florence Baillie, Grace Brewer, Abbie Owen, Edith Forester, May Gross, Gladys Whalley, Hilda Weinerth, Lydia Beehler, Lillian Niccum and Emily Newnan.

Throughout the affair a several piece orchestra rendered a program of music. Guests found in the Old Coach House what was pointed out as the "grave of Section 213," above which was the following epitaph: "Here lies 213." Representative Ramspeck, and Representative O'Day joined others in placing a flower on the final resting place of the unmourned discrimination against women.

Through the efforts of the Government Workers Council of the National Woman's Party, nearly every national organization of women in the United States joined in the campaign for repeal of Section 213. The celebration was the final chapter in the five-year struggle, which ended in victory on July 26 when President Roosevelt signed the bill.

### NEW REPRINTS

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ISS RAY ZILBOORG

Dear Anne:

I am sorry to have been delayed in sending you information about the work women did in support of Burnita's appointment. It is because I have spent much time getting communications to the President about the H-bomb. Enclosed is a copy of the letter the Mandate sent to him. Now we are working on letters urging that the United States try to secure agreements for world disarmament, the greatest deterrent to war! You will have word from us about this within the next few days.

Here is a brief account of the "campaign" for Burnita's appointment: Organizations of women of which she is a prominent member led off by endorsing her, and sending their endorsements to the Attorney-General, who makes recommendations to the President for federal judge-ships. Prominent among these organizations were the National Association of Women Lawyers, Federation of Business and Professional Women's Clubs and National Woman's Party. Friends of Burnita got other organizations to take action, among them 15 State Federations of Women's Clubs.

Then Senators, national Democratic committee-men and women and other officials of influence were asked to recommend her to the President and did. Friends talked to India Edwards, Executive Director, Women's Division, Democratic National Committee, who gave excel-  
lent support, when no competent Democratic woman candi-date for the appointment appeared. (Burnita is a Republican.)\*

A friend of Burnita's gave her entire time for over 6 months in lining up support. She did expert work in getting endorsements. If a Senator told her he would recommend Burnita to the President, provided a certain group of women in his state would endorse her, the worker went immediately to his state and got that endorsement.

\* Judge Matthews says that this statement is not correct. There was no voting in the District of Columbia. At the particular time in question, Judge Matthews was neither a Democrat nor a Republican.



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Of course much more was done, but this will give an idea of the extent of the work. It demonstrates that if women will pick out good women of ability and work for them they can get them appointed and elected to important positions.

I should like to see whatever you write about Burnita's appointment. I told Burnita you were going to write something and she was much interested. She sends her regards to you.

Several times I have asked you to tell me something about Gloria Gartz. I should appreciate it ever so much if you would send me a word now!

Affectionately,

Mabel



## THE EVENING STAR.

WASHINGTON, D. C. THURSDAY, JUNE 4, 1936.

# Pay Equality for Women Advanced

## Wage Ruling Upholds Anti-Discrimination Proponents.

BY DAVID LAWRENCE.

THE women of America may shortly have to decide by their ballots whether they are to be treated hereafter as wards who require special protection or as equals of men entitled to the same civil rights in negotiating for their service and labor.

The issue arises out of the latest decision of the Supreme Court of the United States,

which refused by a vote of 5 to 4 to uphold a New York State law that discriminated against women, even though it was intended as a minimum wage law for their benefit. The rival candidates for the presidential nomination will probably be asked to state their position on an amendment to the Constitution which reads as follows:

"Men and women shall have equal rights throughout the United States and in every place subject to its jurisdiction."

If such an amendment had been the decision of the Supreme Court of the United States on the so-called minimum wage law would probably have been 9 to 0 in rejecting the New York law.



David Lawrence

### Butler Follows Reasoning.

As it was, an examination of the majority opinion of the Supreme court shows that Justice Butler followed in many instances the language and the reasoning of a brief submitted to the Supreme Court on behalf of the National Woman's Party, the National Association of Women Lawyers, the Bindery Women's Union, Local No. 56 of the International Brotherhood of Bookbinders, the Brooklyn-Manhattan Transit Women's League, the Business Women's Legislative Council of New York City.

In that brief, for instance, Burnita Shelton Matthews and Rebekah Scandrett Greathouse, appearing as counsel for the above-mentioned organizations, asked the Supreme Court of the United States to declare the New York law unconstitutional and said:

"The effect of this law is to promote unfair competition between men and women workers and to drive women out of employment . . .

"To take from women freedom to contract to work for wages for which men may work in practically every occupation in an entire State is to hold that the right to labor for pay is primarily the prerogative of the male and that women are wards or serfs who are only allowed to work for special wages under special conditions and subject to special Government regulations. Such a system is at variance with our system of law, which is based on the fundamental principle of equality . . .

### See Way to Higher Pay.

"One class of American citizen is just as much entitled to employment as another class. The limited opportunities of women in the industrial world, as everywhere else, often women to offer their services at lower rates than men do. When prejudiced union rules and legal restrictions are relaxed sufficiently to admit women to all callings which they are capable of following they will undoubtedly be able to demand higher pay. The teaching profession was underpaid for years because it was practically the only profession open to women. As soon as educated women began to find opportunities in other fields teachers' salaries improved. Women in business and the professions know the temptation of overcoming the prejudice by lowering charges and fees. It is really not strange that each group of workers opposes the entry of women into its ranks. The remedy is a matter of opening all doors, not in weighting the scales still further against the woman worker."

Then on top of this has come a formal statement from Jane Norman Smith of the National Woman's Party declaring that the Supreme Court decision this week was a "victory for women" pointing out that the hotel and restaurant associations had publicly declared that if the law was upheld in New York, they would be obliged to discharge thousands of women employees. It was estimated that 50,000 women were employed in restaurants and hotels.

### Replacements Charged.

Ample testimony, according to the statement, has been given in Ohio, Oregon and Massachusetts that minimum wage laws resulted in the discharge of women and the hiring of boys or men. The statement then adds:

"Matthew Woll, vice president of the American Federation of Labor, stated on April 27, 1933, at a hearing before the House of Representatives Committee on Labor that if male workers withdrew their opposition to minimum wage legislation, 'they may well understand that they have again become serfs, not under domination of employers as such, but of the Nation.' William Green president of the federation has voiced the opposition of organized labor to minimum wage laws for men on the ground that 'the minimum tends to become the maximum,' but they would not object to it for women. Women are wary of a gift than men do not want for themselves."

President Roosevelt has said that there exists a "no-man's land" on this subject of fixing minimum wages since the Supreme Court of the United States had this week decided that neither the Federal nor the State governments had the power to fix wages as such.

As a matter of fact, what exists is an "every man's land" and it ought also, be called "every woman's land," this being the area of rights reserved to the people themselves by the tenth amendment of the Constitution, which says:

"The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people."

### People Final Recourse.

That little phrase "or to the people" means that only the people can say whether any new rights shall be subtracted from them, such as the liberty to contract freely for wages

(continued next page)





and entrusted in either a Federal Government commission or a State government commission.

But to draw a constitutional amendment authorizing the fixing of minimum wages would draw down the opposition of labor unions, which do not want any minimum wage legislation for men. So it all comes to whether anybody is going to push a constitutional amendment, especially, to protect women when a large and aggressive group of women are battling to have an amendment adopted which will guarantee them civil rights just as the nineteenth amendment gave them political rights.

A subcommittee of the House Judiciary Committee has reported the

equal rights amendment favorably and there is a large number in both Houses who favor it. If the minimum wage issue is pushed by either party it will precipitate a fight for the equal rights amendment, which will make the old fight for woman suffrage look like a parlor skirmish. For the women back of the equal rights amendment feel they have received the best encouragement in years from the majority opinion written by Justice Butler and supported by Justices Sutherland, Roberts, Vandevanter and McReynolds. The "no-man's land" referred to by the President would then become a question of constitutional revision.

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**MATTHEWS, PURNITA  
SHELTON**

United States District Judge  
District of Columbia

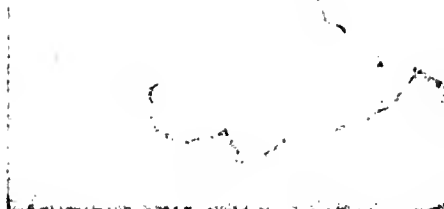
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Judge Matthews received a recess appointment as United States District Judge for the District of Columbia on October 21, 1949 and entered on duty November 9, 1949. She received a permanent appointment on April 7, 1950 and entered on duty April 11, 1950. She took senior judge status on March 1, 1968. She graduated from George Washington University with an LL.B. degree in 1919, LL.M. and M.P.L. degrees in 1920, and an Honorary LL.D. degree in 1950. She also received an Honorary LL.D. degree from American University in 1966.

Judge Matthews is a widow. She is a member of the American Bar Association, the National Federation of Business and Professional Women's Clubs, the International Association of Women Lawyers, the Bar Association of the District of Columbia, the Women's Bar Association of the District of Columbia and a member and past president of the National Association of Women Lawyers.



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Amelia R. Fry

Graduated from the University of Oklahoma in 1947 with a B.A. in psychology, wrote for campus magazine; Master of Arts in educational psychology from the University of Illinois in 1952, with heavy minors in English for both degrees.

Taught freshman English at the University of Illinois 1947-48, and Hiram College (Ohio) 1954-55. Also taught English as a foreign language in Chicago 1950-53.

Writes feature articles for various newspapers, was reporter for a suburban daily 1966-67. Writes professional articles for journals and historical magazines.

Joined the staff of Regional Oral History Office in February, 1959.

Conducted interview series on University history, woman suffrage, the history of conservation and forestry, and public administration and politics.

Director, Earl Warren Oral History Project

Secretary, Oral History Association; oral history editor, Journal of Library History, Philosophy, and Comparative Librarianship.



Fern Schoonmaker Ingersoll

Graduated from Wellesley College, 1949,  
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Librarian in Boston Public Library, 1949-1951.  
Traveled in Europe, did occasional teaching of  
English, 1951-1953. Librarian for UNECO, organ-  
izing library for fundamental education center in  
Thailand, 1954-1956. High School teacher, Ithaca,  
New York, 1957-1960, 1961. Did anthropological  
research in Thailand, 1960-1961, 1967. Lectured  
to Peace Corps Trainees going to Thailand, 1962-  
1965. Worked as administrative assistant for  
anthropological research team and studied Thai  
literature at Chulalongkorn University, Bangkok,  
1967-1969. Published Sang Thong: A Dance-Drama  
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